FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**BIR/00CU/PHN/2022/0001**
Property	**:**	**Sandfield Farm Caravan Site (also known as Sandfield Park), Lichfield Road, Brownhills, Walsall, WS8 6LW**
Applicants	**:**	**T Allen (No 15)** **C Meeson & J Morris (No 27)** **S Colley (No 29)** **A Brindley (No 34)** **B Mansell (No 36)** **R Murrell (No 37)** **I Watkiss (No 38)** **G & S Higgs (No 39)** **T Baker (No 40)** **S & S Holloway (No 53)** **L Baker (No 57)** **R & M Carnighan (No 60)** **R Chilton (No 61)** **I Carter (No 62)**
Representative	**:**	**R Chilton**
Respondent	**:**	**C Webb**
Representative	**:**	**IBB Law LLP**
Type of Application	**:**	**Application under regulation 10 of the Mobile Homes (Site Rules) (England) Regulations 2014**
Tribunal Members	**:**	**Judge M K Gandham** **Mr N Wint FRICS ACIArb**
Date and venue of Hearing	**:**	**24 February 2023, Centre City Tower, 5 – 7 Hill Street, Birmingham B5 4UU**
Date of Decision	**:**	**06 June 2023**

DECISION

Introduction

1. The Applicants are occupiers of park homes on the site known as Sandfield Farm Caravan Site (also known as Sandfield Park), Lichfield Road, Brownhills, West Midlands, WS8 6LW ('the Site'). Mr Charles Webb ('the Respondent') is the son, and of the executors, of the late owner of the Site – Mrs Mary Webb, and now holds the sole beneficial interest in the Site. The Respondent is also the registered Licence Holder of the Site.

2. By an Application received by the Tribunal on 7 October 2022, Mr Robert Chilton applied to the First-tier Tribunal, Property Chamber under regulation 10 of the Mobile Homes (Site Rules) (England) Regulations 2014 ('the Regulations') for a determination by the Tribunal:

    (i) that the Respondent had not complied with a procedural requirement imposed by regulations 7 to 9 of the Regulations (under regulation 10 (2)(b)); and

    (ii) that the Respondent's decision in his consultation response document with respect to some of the proposed site rules was unreasonable (under regulation 10(2)(c).

3. Mr Chilton provided, with the Application, a number of documents which included: a copy of a proposal notice dated 29 July 2022 ('the Proposal Notice') with the proposed new site rules for the Site ('the Proposed Rules'), a copy of the consultation response document dated 22 September 2022 ('the Consultation Response'), a Record of Consultation Responses and a copy of some historical park rules.

4. On 18 October 2022, the Tribunal received a letter from several other occupiers of the Site requesting that they be joined as applicants to the Application and appointing Mr Chilton as their representative.

5. On 28 October 2022, the Tribunal issued Directions adding all the Applicants as parties under Rule 10 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and setting out a timetable in respect of the matter.

6. The Tribunal received a Statement of Case from the Applicants on 16 November 2022 and a Reply from the Respondent on 14 December 2022.

7. Based on the evidence before it, the Tribunal was satisfied that the Applicants were all 'consultees' as defined under the Regulations and that the Respondent, being the person who was beneficially entitled to the estate, was the 'owner' of the Site as defined under the Mobile Homes Act 1983.

The Law

8. The applicable provisions are found in the Mobile Homes Act 1983 as amended ('the Act') and the Regulations.

9. Section 2C of the Act provides as follows:

> ***2C Site rules***
>
> *(1) In the case of a protected site in England ... for which there are site rules, each of the rules is to be an express term of each agreement to which this Act applies that relates to a pitch on the site (including an agreement made before commencement or one made before the making of the rules).*
>
> *(2) The "site rules" for a protected site are rules made by the owner in accordance with such procedure as may be prescribed which relate to—*
>
> *(a) the management and conduct of the site, or*
> *(b) such other matters as may be prescribed.*
>
> *...*
>
> *(4) Site rules come into force at the end of such period beginning with the first consultation day as may be prescribed, if a copy of the rules is deposited with the local authority before the end of that period.*
> *....*
>
> *(7) Regulations may provide that a site rule may not be made, varied or deleted unless a proposal to make, vary or delete the rule is notified to the occupiers of the site in question in accordance with the regulations.*
>
> *(8) Regulations may provide that site rules, or rules such as are mentioned in subsection (3), are of no effect in so far as they make provision in relation to prescribed matters.*
>
> *(9) Regulations may make provision as to the resolution of disputes—*
>
> *(a) relating to a proposal to make, vary or delete a site rule;*
> *(b) as to whether the making, variation or deletion of a site rule was in accordance with the applicable prescribed procedure;*
> *(c) as to whether a deposit required to be made by virtue of subsection (4), (5) or (6) was made before the end of the relevant period.*
>
> *(10) Provision under subsection (9) may confer functions on a tribunal.*
> *...*

10. In respect of the Regulations, the relevant parts provide as follows:

> ***4.— Matters prescribed for the purposes of section 2C(2)(b) of the 1983 Act***

(1) The matters prescribed for the purposes of section 2C(2)(b) are the matters set out in paragraph (2).

(2) A site rule must be necessary—

(a) to ensure that acceptable standards are maintained on the site, which will be of general benefit to occupiers; or

(b) to promote and maintain community cohesion on the site.

7. Requirement to consult on a proposal

An owner must, in relation to the protected site concerned, consult—

(a) every occupier; and

(b) any qualifying residents' association,

on a proposal in accordance with regulations 8 and 9.

8.— Notification of proposal

(1) The owner must notify each consultee of a proposal, by issuing a proposal notice ("the proposal notice").

…

(4) The proposal notice may contain more than one proposal, and in such cases, this regulation and regulations 9 to 17 shall apply in relation to those proposals collectively as if they were a single proposal.

9.— Owner's response to the consultation

(1) Within 21 days of the last consultation day, the owner, having taken into account any representations received from consultees, must—

(a) decide whether to implement the proposal (with or without modification) ("the decision"); and

(b) send a document, to be known as "the consultation response document", to each consultee, notifying them of that decision.

…

10.— Right to appeal to tribunal in relation to the owner's decision

(1) Within 21 days of receipt of the consultation response document a consultee may appeal to a tribunal on one or more of the grounds specified in paragraph (2).

(2) The grounds are that—

(a) a site rule makes provision in relation to any of the prescribed matters set out in Schedule 5;

(b) the owner has not complied with a procedural requirement imposed by regulation 7 to 9 of these Regulations;

(c) the owner's decision was unreasonable having regard, in particular to—

(i) *the proposal or the representations received in response to the consultation;*
(ii) *the size, layout, character, services or amenities of the site; or*
(iii) *the terms of any planning permission or conditions of the site licence.*

(3) Where a consultee makes an appeal under this regulation, the consultee must notify the owner of the appeal in writing and provide the owner with a copy of the application made, within the 21 day period referred to in paragraph (1) above.

11. Appeal procedure

On determining an appeal under regulation 10 the tribunal may—
(a) confirm the owner's decision;
(b) quash or modify the owner's decision;
(c) substitute the owner's decision with its own decision; or
(d) where the owner has failed to comply with the procedure set out in regulations 7 to 9, order the owner to comply with regulations 7 to 9 (as appropriate), within such time as may be specified by the tribunal.

11. In making its determination, the Tribunal also had regard to the decision of the Upper Tribunal in *White v Simpson [*2019] UKUT 0210 (LC), in which the Deputy Chamber President, Martin Rodger KC, stated at paragraph 65:

> *"In my judgment it is more consistent with the language and structure of section 2C (2) for "management and conduct of the site" to be taken to require a close connection between the proposed rule and the site itself, and as not covering an age restriction. Rules having to do with the physical environment of the site, such as parking restrictions, separation distances, the storage of dangerous substances, refuse disposal, and (perhaps) the keeping of pets would all fall within this limited class. Rules about matters which do not have an impact on the condition of the site, including rules about personal behaviour or conduct, fall outside this category and are left to be dealt with by express agreement when a new pitch agreement is entered into, unless they relate to the "other matters" to be prescribed by regulation. In the 2014 Regulations the Secretary of State has chosen to prescribe a narrow class of other matters, including only those which are "necessary" for the specified purposes, but the power could have been used (or could be used in future) to prescribe a more generous menu."*

Hearing

12. A public hearing was held at Centre City Tower, 5 – 7 Hill Street, Birmingham, B5 4UU. Mr Chilton, Ms Watkins and Mr Brindley attended on behalf of the

Applicants, represented by Mr Chilton. The Respondent was also in attendance and was represented by Mr Clement from IBB Law LLP.

13. There were two procedural matters raised by the parties in their written submissions. The first was raised by the Applicants and related to the service of the Consultation Response upon them and the second was raised by the Respondent and related to the service of the notice of the appeal by Mr Chilton.

14. With regard to the site rules, the Applicants' Statement of Case made a number of submissions with regard to seventeen of the Proposed Rules. The Respondent, with his Reply, had provided a set of revised site rules ('the Revised Rules'), having considered the submissions made by the Applicants. The Tribunal confirmed to the parties that any determination made by the Tribunal would relate to the Proposed Rules, as these were the draft rules which had been consulted upon and which had formed the basis of the appeal.

15. Accordingly, following oral submissions on the procedural matters, the Tribunal had a brief recess in order to allow the parties an opportunity to discuss the Proposed Rules. On reconvening, the parties confirmed that the Tribunal was only required to make a determination as to whether the owner's decision had been unreasonable in respect of nine of the Proposed Rules – Rules 1, 4, 6, 9, 19, 21, 22, 23 and 36.

The Procedural Matters

Service of the Consultation Response

16. Mr Chilton, on behalf of the Applicants, stated that the proposal notice confirmed that the date upon which the consultation ended was 29 August 2022. As it was a bank holiday, he stated that any postal submissions sent by the consultees had to be delivered to the Respondent by no later than 27 August 2022, thus shortening the consultation process. In addition, Mr Chilton stated that there were issues with responses which had been submitted by recorded delivery, as the Respondent had refused to accept the same. As such, he stated that a number of consultees had to arrange for different delivery methods.

17. In relation to the Consultation Response, Mr Chilton stated that this document should have been sent to each of the consultees within 21 days of the last consultation day. As the Consultation Response had been hand-delivered, he submitted that this should have taken place by no later than 19 September 2022. As the Consultation Response was dated 22 September 2022 and the letter enclosing the same was dated 23 September 2022, he stated that there had been a breach of the procedural rules, rendering the whole consultation process void.

18. Mr Clement, on behalf of the Respondent, stated that the Respondent was not aware of any issues with the delivery of recorded post to the site office. He stated that, in any event, regulation 8 of the Regulations did not require that any

representations should be made via recorded delivery, in fact representations could be made in any form including by standard delivery, email or even orally.

19. In relation to the service of the Consultation Response, Mr Clement confirmed that the Respondent accepted that the document should have been sent to the Applicants by 19 September 2022. He stated that there had been a significant delay, caused by the postal strike, in the Respondent's Representative receiving the representations from the Respondent in order to formulate the response. In addition, due to issues with staffing, Mr Clement stated that the Respondent had been unable to hand-deliver the Consultation Response until 23 September 2022.

20. Mr Clement submitted that no prejudice had been caused to the consultees and that regulation 11(d) of the Regulations expressly made provision in relation to instances where there had been a failure to comply with the procedure set out in regulations 7 to 9. As such, Mr Clement submitted that it was legally incorrect to suggest that the late delivery would void the whole consultation process.

21. As there had clearly been a minor procedural failure resulting in a short delay in delivering the consultation response document, which the Respondent had accepted but which had not prejudiced the Applicants, Mr Clement requested that the Tribunal exercise its power under regulation 11(d) to extend the time of the submission of the Consultation Response to 23 September 2022.

Service of the Notice of Appeal

22. Mr Clement, on behalf of the Respondent, stated that the Applicants had failed to comply with regulation 10(3) of the Regulations, in that they had failed to notify the Respondent in writing, within the required timescale, that they had made an appeal to the tribunal. Unlike the minor procedural failure by the Respondent, Mr Clement submitted that the tribunal had no power to extend such time period or waive this requirement and, as such, the failure to comply with the same was a fundamental error, rendering the Application defective and, consequently, that the appeal should be struck out.

23. Mr Chilton stated that notification and a copy of the Application had been sent to the Respondent at the same time the appeal had been forwarded to the tribunal. He stated that this had been sent via normal postal delivery, due to the problems consultees had encountered with sending documents by recorded delivery. He confirmed that he had not retained a copy of the letter that was sent to the Respondent.

The Rules

Rule 1

24. Mr Chilton, on behalf of the Applicants, submitted that rule 1 of the Proposed Rules lacked clarity and did not comply with the licence conditions for the Site, as it referred to a blanket restriction in the height for hedges and fences of 1

metre. In the written submissions, the Applicants proposed a number of amendments which they stated would clarify the rule, in particular for newer occupiers who might not be aware of the Site Licence conditions. Mr Chilton confirmed that the Applicants had no objection to the proposed wording as detailed in clause 14 of the Revised Rules, which was based on the Applicants' proposed amendments.

25. Mr Clement confirmed that the Respondent had no objection to the amendment of rule 1 to include the greater clarity provided by clause 14 of the Revised Rules.

Rule 4

26. Mr Chilton stated that the Applicants' objection to rule 4 related to the safety of occupiers. He stated that barbecues should have safety measures built into them, so should have an approved BSI Kitemark, and that charcoal barbecues were unsafe and produced an obnoxious smell which would cause a genuine nuisance to occupiers, so should not be permitted on the Site. He stated that, although the Respondent had stated that this rule had been amended following consultation, no modification had actually made.

27. The Respondent did not object to the Applicants' proposed amendments.

Rule 6

28. The Applicants, in the written submissions, stated that the Respondent had completely ignored the representations following consultation with regard to this rule. They referred to the Firearm Security Handbook 2020, which contained rules relating to the storage of firearms in mobile homes and static caravans. The Applicants stated that no firearms or other offensive weapons should be carried or stored on the Site unless the handbook was complied with, which they stated would not be possible as it required a unit to be site fixed or altered in such a way that it would no longer fall within the statutory definition of a '*mobile home*' under the Act.

29. The Respondent had no objection to the Applicants' proposed amendments but suggested that any rule should also refer to firearms not being "*used*" on the Site.

Rule 9

30. Mr Chilton submitted that a copy of an occupiers' current Gas Safety Certificate should be displayed in the window of their mobile home at all times.

31. Mr Clement submitted that this was not legally required, was unworkable and would be of little use, as any certificate could not be easily read without entering onto the relevant pitch.

Rule 19

32. Mr Chilton stated that the Applicants did not consider that an age limit of 45 was reasonable. He stated that it had never been suggested that the Site was for those of retirement age and that it had always attracted occupiers of varying ages, providing low-cost housing, sometimes as a stopgap between ownership of standard housing.

33. Mr Chilton also submitted that it was unclear as to why the Respondent had chosen an age of 45. He did note that, previously, there had been a provision that, at the point of purchase, a couple should be childless, however, stated that that this did not prevent such a couple having children after residing on the Site. He submitted that either the age limit should be removed or that it should be increased.

34. Mr Clement noted the decision of the Upper Tribunal in *White v Simpson* and, though he accepted that a rule setting out an age limit would not fall within the confines of the definition of '*management and conduct the site*', he stated that the proposed rule was a prescribed matter as it was necessary to promote and maintain the community cohesion of the Site under regulation 4(2)(b) of the Regulations.

35. Mr Clement submitted that previous provisions had included restrictions relating to children, which implied that the Site had never been envisaged as a park for families. He stated that the Respondent simply wished to reinforce that idea by making the park a community for persons who were predominantly retired or semi-retired.

36. He stated that the majority of occupiers had not objected to the age limit in the consultation process and, accordingly, supported the proposal of an age restriction. Without such a rule, he submitted that the Respondent would not be able to restrict ownership of homes to families with teenage children, who might cause disruption to the current occupiers and affect the cohesion of the current community.

Rule 21

37. Mr Chilton submitted that rule 21 should be expanded to include additional information about when works, excluding emergency work, could be carried out due to noise nuisance to other occupiers. He stated that the revised wording in rule 24 of the Revised Rules was acceptable to the Applicants.

38. Mr Clement confirmed that the Respondent would leave it to the Tribunal to consider what was and was not reasonable.

Rule 22

39. Mr Chilton submitted that rule 22 should be amended to confirm that outdoor games could be played on either an occupier's pitch or in a designated

recreational area. In the Applicants' written submissions, it stated that, as site licence regulations provided that an area equal to 1/10th of the Site should be allocated as a communal area for children and visitors, the Respondent must make provision for such an area. It was also submitted that the Site already had a communal area which had become overgrown.

40. The Respondent accepted that there was a formal recreational area on Site, which was no longer in use, and had no objections to outdoor games being played in a designated area or on a pitch.

Rule 23

41. In respect of rule 23(a), Mr Chilton stated that, since 1951, the Site had not allowed dogs due to any potential noise. He stated that he was not aware of any of the current occupiers owning any dogs, that the majority of the current occupiers had chosen to live on a park with no dogs and that allowing dogs would cause problems with community cohesion.

42. In respect of rule 23(b), Mr Chilton stated that it was unreasonable to have a clause which required the owners of cats to ensure that they did not upset or cause a nuisance to other occupiers, or that they should not despoil the Site, as cats were generally wilder than dogs.

43. Mr Clement stated that the Respondent was aware that, historically, there had been rules prohibiting the keeping of dogs, however, stated that, since 2015, there had been no enforceable site rules on the Site and that, accordingly, there had been no rules preventing anyone owning dogs in the last eight years.

44. He stated that the Respondent did not wish to introduce a rule prohibiting dogs altogether, as it might put off prospective purchasers, in particular elderly lone residents who might want a dog for companionship. He stated that the Respondent considered that this potential need outweighed any historical restriction against dogs on the Site.

45. Mr Clement stated that, in acknowledgment of the concerns raised by the Applicants, and as a show of willingness to compromise, the Respondent was willing to agree an amendment to allow only one dog per household. Mr Clement submitted that the Applicants' concerns regarding any noise nuisance had already been taken into account, as the draft rule contained provisions relating to nuisance as well as to the breed of dogs allowed.

46. In relation to rule 23(b), Mr Clement stated that the Respondent accepted that it was difficult to manage the behaviour of cats, but that owners should take responsibility for their pets.

Rule 36

47. Mr Chilton submitted that the Applicants considered that the wording in the proposed rules required amending to clarify that it only related to commercial

vehicles exceeding 3.5 tonnes being excluded from parking on the Site, and that the rule should not include vehicles which had been adapted for domestic use, as this might include vehicles that had been adapted for disability purposes.

48. In the written submissions, the Applicants also referred to smaller commercial vehicles as not necessarily being any larger than certain domestic vehicles.

49. Mr Clement confirmed that the Respondent did not consider the rule as drafted as being unreasonable, but had no specific objection to the amendments suggested by the Applicants.

The Tribunal's Deliberations and Determinations

50. The Tribunal considered all of the written and oral evidence submitted by the parties, which is briefly summarised above.

The Procedural Matters

Service of the Consultation Response

51. The Tribunal accepted that the Applicants did encounter problems with regard to the posting of responses to the Respondent, however, agrees with Mr Clement that regulation 8 of the Regulations does not detail in which format any response should be made. The regulation also does not refer to 'working days' and, as such, any shortened consultation due to a bank holiday falling within the consultation period is not relevant.

52. The Tribunal does find that there was a breach of regulation 9(1)(b), in that the Respondent had failed to send the Consultation Response to each of the consultees within 21 days of the last consultation day – a fact which was not disputed by the Respondent.

53. As to whether such a breach invalidated the whole consultation process, the Tribunal does not accept the same. Mr Clement is correct in that, when determining an appeal to the tribunal under regulation 10, the tribunal may, under regulation 11(d), order the owner to comply with regulations 7 to 9 within such time as may be specified by the tribunal.

54. The Tribunal notes that the Respondent had sent the Consultation Response to the consultees by 23 September 2022 and that none of the consultees appeared to have been prejudiced by the delay of four days. As such, the Tribunal considers that it is appropriate in the circumstances to order the Respondent to comply with regulation 9 by no later than 23 September 2022 and notes that he has already done so.

Service of the Notice of Appeal

55. In relation to the service of the notice of appeal, the Tribunal accepts Mr Clement's submission, that the tribunal has no power to extend any notification

period under regulation 11 if it finds that Mr Chilton did not comply with the same.

56. The Tribunal, however, also accepts Mr Chilton's oral submission at the hearing, that he forwarded a notification to the Respondent, together with a copy of the Application, at the same time as submitting his appeal. Although the Tribunal notes that the Respondent did not appear to have received a copy of the same, Mr Chilton stated that this was not sent by recorded delivery and both parties have referred to difficulties with the postal service at the time.

57. As the appeal was received by the tribunal's offices on 7 October 2022, the Tribunal finds that Mr Chilton did notify the Respondent of the appeal in writing within 21 days of receipt of the Consultation Response in accordance with regulation 10(3).

The Rules

Rule 1

58. The Tribunal noted that the Respondent did not refute the representations made by the Applicants regarding the blanket restriction on height being contrary to the site licence conditions and, accordingly, finds that the Respondent's decision was unreasonable. The Tribunal also considers that only structural improvements should require the prior written consent of the Respondent, which the Respondent had accepted following receipt of representations to Proposed Rule 12.

59. As both parties had agreed that the proposed wording in clause 14 of the Revised Rules provided the greater clarification requested by the Applicants in their representations, the Tribunal substitutes the Respondent's decision with its own and determines that the rule should be modified as follows:

> *Private gardens must be kept neat and tidy and left intact when you vacate the pitch. You must not, without our prior written consent (which will not be unreasonably withheld) and prior written approval from the local authority (where appropriate) carry out any of the following:*
>
> *(a) building works to the park home, the base or the pitch; repairs or maintenance carried out by you in accordance with clauses 21(c) and/or 21(d) of the Implied Terms set out in the Mobile Homes Act 1983; any other structural improvements;*
> *(b) the erection of any porches, sheds, garages, outbuildings, fences or other structures;*
> *(c) paving or hard landscaping, including the formation of a pond;*
> *(d) planting, felling, lopping, topping or pruning of any trees; or*
> *(e) the erection of any pole, mast, wire, dish or communications receiving equipment.*

Rule 4

60. The Tribunal noted that the Respondent, despite stating that he had modified this rule following receipt of representations, had failed to do so. The Tribunal finds that the Respondent's decision to modify the rule was reasonable and, as the Respondent had failed to do the same, substitutes the Respondent's decision with its own decision and determines that the rule should be modified as follows:

> *For the safety of occupiers, bonfires, paraffin heaters, incinerators and pyrotechnics are not permitted on the Park. Gas and electric barbecues only are permitted, provided that they meet relevant safety standards at the time of use.*

Rule 6

61. The Tribunal noted the Applicants' submissions regarding the failure of the Respondent to deal with any representations made regarding this rule. The Tribunal finds that the Respondent's decision was unreasonable having regard to the representations received and substitutes the Respondent's decision with its own decision and determines that the rule should be modified as follows:

> *Firearms and other offensive weapons are prohibited from the Park and must not be kept, used or carried on the Park.*

Rule 9

62. The Tribunal accepted the Respondent's submissions, that the displaying of a current Gas Safety Certificate in the window of a mobile home is neither legally required nor of any practical benefit. Accordingly, the Tribunal confirms the Respondent's decision not to modify this rule.

Rule 19

63. The Tribunal noted the submissions from both parties in respect of a rule imposing a proposed age restriction. Following the decision of the Upper Tribunal in *White v Simpson*, the Tribunal finds that such a condition does not relate to the management and conduct of the Site, however, finds that such a rule could be made if it falls within a prescribed matter under regulation 4 of the Regulations.

64. Mr Clement stated that the proposed rule was necessary to promote and maintain community cohesion on the Site. Although the Tribunal notes that this is a prescribed matter, the Tribunal does not accept that the Respondent has shown that the proposed site rule was "*necessary*" to promote or maintain community cohesion for the following reasons:

    (i) there was no evidence that there had ever been an age restriction in the previous rules relating the Site, although there had been some restrictions relating to children residing at the park;

(ii) in the Record of Consultation Responses, a number of consultees had suggested that family members over the age of 18 should be allowed to live on the Site, again suggesting that an age restriction was not agreed by many of the occupiers; and

(iii) the Applicants had stated that it had never been suggested that the Site was for those of retirement age and that it had always attracted occupiers of varying ages.

As such, there appeared to be a great deal of discussion around whether the Site was ever intended to be a park for the semi-retired and whether an age restriction was appropriate.

65. Accordingly, the Tribunal was not satisfied that there was any community cohesion regarding this question to be maintained, nor that such a rule was necessary to promote any community cohesion when the occupiers appeared to be at odds regarding the purpose of the park.

66. Consequently, the Tribunal determines that rule 19 is not a site rule within the meaning of section 2C of the Act, as it does not relate to the management and conduct of the Site and it is not necessary for any of the prescribed matters, so it must be deleted.

Rule 21

67. Although the Tribunal noted the submissions regarding expanding rule 21 to include other types of noise nuisance, the right to appeal to the tribunal relates to whether the owner's decision (following consultation) was unreasonable, having regard to the matters set out in regulation 10(2)(c). The Tribunal does not consider that proposed rule 21 is, of itself, unreasonable (other than its failure to provide an end time) and there were no details that any representations regarding its reasonableness or otherwise were received in the consultation response.

68. Accordingly, the Tribunal substitutes the Respondent's decision with its own decision and determines that the rule should be modified as follows:

> *In consideration to all occupiers, grass cutting should not take place before 10:30 am or after 4:00 pm on Sundays.*

Rule 22

69. Based on the submissions from both parties, the Tribunal finds that the Respondent's decision was unreasonable. Accordingly, the Tribunal substitutes the Respondent's decision with its own decision and determines that the rule should be modified as follows:

> *Other than in a designated recreational area or upon an occupier's pitch, the playing of outdoor games on the Park is prohibited.*

Rule 23

70. In relation to rule 23(a), the Tribunal noted that, although the Applicants submitted that the Site had historically not allowed dogs due to any potential noise, the historical park rules provided by Mr Chilton with his Application also referred to no pets normally being allowed on the Site, with any existing animals only being replaced with the park owner's prior consent. They also referred to any animals being kept on a lead when requiring exercise on the grounds of the park and that if an "*animal*" fouled on any area – communal or private – then the animal's owner was responsible for clearing up the same.

71. It was clear from the submissions that, since then, cats appeared to have been allowed on the Site without any particular rules in place in respect of their number or upkeep and that, currently, there were no rules in place in respect of any pets.

72. In the Record of Consultation Responses, it was recorded that a number of occupiers had been opposed to the proposal to allow up to two dogs to be kept on each pitch, with the Respondent deciding that the rule as proposed was reasonable. The Respondent did, however, agree at the hearing, that he would have no objections to an amendment allowing no more than one dog per household.

73. Based on the historical evidence indicating restrictions on *any* pets, no rules currently being in place with regard to pets and a number of occupiers appearing to have cats, the Tribunal does not find that the Respondent's decision to allow dogs per se to be unreasonable. With regard to the number of dogs, based on the Respondent's submissions as to why he had proposed the rule, the Tribunal finds that this would be equally satisfied by allowing a provision for no more than one dog per home.

74. In relation to the rule 23(b), the Tribunal accepts that owners are less able to manage or control the behaviour of their cats and, thus, any rules should reflect this difference.

75. Accordingly, the Tribunal substitutes the Respondent's decision with its own decision and determines that the rule should be modified as follows:

> *You may not keep any pet or animal in the park home or on the pitch or the Park except for the following:*
>
> *(a) Not more than one dog. Dogs must be kept under proper control (on a leash not more than 1 metre in length) whilst away from the park home or pitch, and must not be permitted to upset or cause a nuisance to other users of the Park. Dogs must not despoil the Park, and you are responsible for disposing safely and hygienically of your dog's waste. No dog of a breed which is subject to the Dangerous Dogs Act 1991 or similar legislation is permitted on the Park; and/or*

(b) Not more than two domestic cats; and/or
(c) Other pets of a type commonly kept as domestic pets in the UK which are securely housed in a cage, aquarium or similar facility and kept at all times inside the park home.

Rule 36

76. The Tribunal notes that, based on the Record of Consultation Responses, that the Respondent's reasoning behind this rule was to ensure that the Site appeared as a residential park and that large commercial vehicles did not impede access to the Site by emergency vehicles.

77. The Tribunal found that it was not unreasonable to ensure that the Site retained the view of a residential park but did not consider that vehicles which had been adapted for domestic use would fall foul of this objective. In addition, rule 32 of the Proposed Rules already dealt with access for emergency vehicles. As such, the Tribunal found that that the rule, as proposed, was unreasonable based on the representations made and should be modified.

78. Accordingly, the Tribunal substitutes the Respondent's decision with its own decision and determines that the rule should be modified as follows:

> *Other than for delivering goods and services, you must not park or allow the parking of:*
> *(a) any commercial vehicle on the pitch without our prior written permission; and*
> *(b) any commercial vehicle with a weight of 3.5 tonnes or over on the Park.*
> *For the avoidance of doubt, rule (a) does not apply to any commercial vehicle which has been adapted for domestic use.*

Appeal

79. If either party is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

M K GANDHAM
.....
Judge M K Gandham