



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

Case Reference : **MAN/16UE/PHC/2023/0010**

Property : **20 Fell View, Gosforth, Seascale, CA20 1HY**

Applicant : **The Berkeley Leisure Group Limited**

Respondent : **Miss S Cartwright**

Type of Application : **Schedule 1 Chapter 2 Paragraph 16 or Chapter 4 Paragraph 14 Mobile Homes Act 1983**

Tribunal Members : **Mr J Murray LLB
Mr J Gallagher MRICS**

Date of Decision : **23 October 2023**

REASONS FOR DECISION

DETERMINATION

1. The Tribunal makes the following determinations

(a) The Respondent is in breach of Park Rules:

- i. (3) : Trees and Shrubs and other planting must not be permitted to grow to a size or shape to interfere with a neighbour's pitch. Vegetables must not be grown
- ii. (30) Home owners must maintain the outsides of their parkhome in a clean and tidy condition.

(b) The Respondent is in breach of the Mobile Homes Act Written Statement (Agreement):

- i. 3(e) to keep the mobile home in a sound state of repair and condition and without limitation to the aforesaid to be responsible for ensuring that all electrical water gas and boiler appliances and the installation thereof
- ii. 3(f) to keep the pitch and all fences sheds outbuildings and gardens thereon in a neat and tidy condition
- iii. 3(i) to comply with the park rules from time to time in force a copy of the current park rules being annexed hereto in the Third Schedule.

(c) The Respondent is in breach of the Site Licence as issued by Copeland Borough Council: s12 Fire Hazard: long grass and vegetation should be cut at frequent and regular intervals where necessary to prevent it becoming a fire hazard to caravans, buildings or other installations on the site. The space beneath and between caravans should not be used for the storage of combustible materials. Caravan owners should ensure vegetation, trees, shrubbery etc should be adequately cut back so as to avoid risk of fire spread between units.

INTRODUCTION

2. The Applicant made an application to the Tribunal for a determination of whether the Respondent was in breach of her Mobile Homes Act written statement, the Park Rules, and the licence conditions imposed by the Local authority, together with an order that the Respondent remedy any such breaches within 28 days of the date of any order.
3. Directions were made by a Legal Officer on 17 July 2023 arranging for a paper determination (unless anyone indicated they wanted an oral hearing within 49 days of the directions) and an inspection. The Applicant was directed to send a bundle within 21 days of the directions, and the Respondent to send a bundle within 21 days of receipt of the Applicant's bundle.
4. The Applicant sent in a bundle. The Respondent did not make any response or involve herself in the proceedings
5. An inspection of the site took place on 23rd October at 9.30am. The Park Manager Ian Jacklin was present. The Respondent did not answer the door. The Tribunal inspected the site which was excessively overgrown on all sides, unsightly and no doubt a health hazard. The front of the site had been trimmed where the hedge would have overhung the road. Mr. Jacklin said that he had done that to keep the roadway clear.
6. The application was dealt with as a paper determination by the Tribunal.

THE APPLICATION

7. The Applicant set out the following questions for the Tribunal to determine:

(a) Whether the Respondent was in breach of Park Rules:

- i. (3) : Trees and Shrubs and other planting must not be permitted to grow to a size or shape to interfere with a neighbour's pitch. Vegetables must not be grown
- ii. (30) Home owners must maintain the outsides of their park home in a clean and tidy condition.

(b) Whether the Respondent was in breach of their Mobile Homes Act Written Statement (Agreement):

- i. 3(e) to keep the mobile home in a sound state of repair and condition and without limitation to the aforesaid to be responsible for ensuring that all electrical water gas and boiler appliances and the installation thereof
- ii. 3(f) to keep the pitch and all fences sheds outbuildings and gardens thereon in a neat and tidy condition
- iii. 3(i) to comply with the park rules from time to time in force a copy of the current park rules being annexed hereto in the Third Schedule.

(c) Whether the Respondent is in breach of the Site Licence as issues by Copeland Borough Council:

s12 Fire Hazard: long grass and vegetation should be cut at frequent and regular intervals where necessary to prevent it becoming a fire hazard to caravans, buildings or other installations on the site. The space beneath and between caravans should not be used for the storage of combustible materials. Caravan owners should ensure vegetation, trees, shrubbery etc should be adequately cut back so as to avoid risk of fire spread between units.

8. The Applicant sought an order that the Respondent be required to remedy the breaches within a reasonable period of time, and suggested 28 days of the date of the order.

THE LEGISLATION

9. The relevant legislation is contained in s4 of the Mobile Homes Act 1983 which gives the court jurisdiction to determine any question arising under the Act or any agreement to which it applies, and to entertain any proceedings brought under the Act or any such agreement.

10. Paragraphs 18 and 20 of the Implied Terms govern pitch fee reviews and the matters to be taken into account if a pitch fee increase is not to reflect simply any increase or decrease in the RPI since the last review. So far as relevant they read:

“18(1) when determining the amount of the new pitch fee particular regard shall be had to

(a) any sums expended by the Owner since the last review date on improvements

(i) which are for the benefit of the occupiers of mobile homes on the protected site;.....

(aa) any deterioration in the condition, and any decrease in the amenity of the site or any adjoining land since [26th May 2013] (insofar as regard has not previously been had to that deterioration or decrease for the purposes of this sub-paragraph);.....

20 (A1) *Unless this would be unreasonable having regard to paragraph 18(1), there is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the [RPI]*”.

THE APPLICANT’S SUBMISSIONS

10. The Applicant provided a statement of case by David Blake, Operations Manager dated 9th May 2023 for Berkeley Parks, who became the Owners/Operators of Fell View.
11. He stated that the Respondent was the assigned of a written statement assigned in or around 2000.
12. He stated that the Applicant did not have a copy of the original agreement on file . From records, neighboring sited contained Implied and Express Terms as per a standard document the Applicant produced. The Applicant had purchased the site on 5th October 1999 from John Meeks and no Agreement was passed over to the Applicant at that time. The Respondent was residing on the site in the year 2000 as the Applicant had a copy of a refurbishment form which was supplied.
13. The Applicant confirmed that they sought a determination as to whether the Respondent was in breach for not maintaining the home and pitch in accordance with the Park Rules, the Terms of the Mobile Homes Act Written Statement (Agreement) and Site Licence Conditions as set by the Local Authority, together with an order from the tribunal an order to remedy the breach within an acceptable timeframe (he suggested 28 days).

14. The Applicant provided images of the overgrown garden taken on 23rd January 2023. The first image does highlight the poor condition of the facade of the home. Apart from the clearing of the hedging, bushes, brambles, weeds and nettles, they made a further request for the guttering, window, and door-frames to be cleaned in line with other homes in the area.
15. The Applicant had notified the Respondent regarding these in early December 2021. This was acknowledged by the Respondent but no action was taken.
16. The Applicant wrote to the Respondent on 4th January 2022, and requested an acknowledgment and proposals for remedy within 14 days .
17. The Applicant received acknowledgement via telephone from the Respondent, informing that she required some time to arrange for work to be carried out to clear the garden.
18. The Park Management team advised that a small amount of work had been carried out to the area of the electric meter as the Park Team were struggling to read the meter on a monthly basis
19. The Applicant wrote again to the Respondent on 26th August 2022 requesting within 14 days for work to be carried out to the pitch. Further correspondence ensued, and the Respondent was asked if she needed assistance but she failed to engage.

THE RESPONDENT'S SUBMISSIONS

20. The Respondent did not play any part in the proceedings.

THE DETERMINATION

21. The Tribunal has jurisdiction to determine any question arising under the Mobile Homes Act 1983 by virtue of s4 of the Act.
22. The Tribunal firstly had to determine the nature of the Park Homes Agreement the Respondent was subject to. The Applicant was unable to provide a copy of any written agreement; they provided a precedent copy of a written statement which they said was in line with other homes on the site at the time they believed the Respondent commenced occupation.
23. On the balance of probabilities it is likely that the Respondent had a written agreement at the time; it is also likely it would be in a standard form in concurrence with others issued by the Site Owner at that time. The Respondent has offered no submissions or evidence to contradict this. In those circumstances the Tribunal finds on the balance of probabilities that the site agreement the Respondent was subject to was in the form supplied by the Applicant.
24. The agreement at clause 3 prohibits breaching the site licence, and obliges the park home owner to comply with site rules, and to maintain the pitch and gardens in a tidy condition, as might be expected from any written agreement.
25. The Park Rules for Fell View Park date from 6th December 2014. They make detailed provision as to the condition of the pitch, in rules 1, 2, 3 and 30.
26. The Local Authority Site Licence dated 5th November 2009 provides at Paragraph 12 (Fire Hazard) that long grass and vegetation should be cut at frequent and regular intervals where necessary to prevent it becoming a fire hazard to caravans, buildings or other installations on the site. Any such cuttings should be removed from the vicinity of caravans. The space beneath and between caravans should not be used for the storage of combustible materials.

Caravan owners should ensure vegetation, trees, shrubbery, etc should be adequately cut back so as to avoid risk of fire spread between units.

27. The Tribunal has inspected the site and seen the Respondent's pitch. There can be no doubt that it is in overgrown and poor condition and likely to attract vermin. It is unsightly and could be hazardous.

28. Accordingly the Tribunal makes the following determinations:

(a) The Respondent is in breach of Park Rules:

- i. (3) : Trees and Shrubs and other planting must not be permitted to grow to a size or shape to interfere with a neighbour's pitch. Vegetables must not be grown
- ii. (30) Home owners must maintain the outsides of their parkhome in a clean and tidy condition.

(b) The Respondent is in breach of the Mobile Homes Act Written Statement (Agreement):

- i. 3(e) to keep the mobile home in a sound state of repair and condition and without limitation to the aforesaid to be responsible for ensuring that all electrical water gas and boiler appliances and the installation thereof
- ii. 3(f) to keep the pitch and all fences sheds outbuildings and gardens thereon in a neat and tidy condition
- iii. 3(i) to comply with the park rules from time to time in force a copy of the current park rules being annexed hereto in the Third Schedule.

(c)The Respondent is in breach of the Site Licence as issued by Copeland Borough Council: s12 Fire Hazard: long grass and vegetation should be cut at frequent and regular intervals where necessary to prevent it becoming a fire hazard to caravans, buildings or other installations on the site. The space beneath and between caravans should not be used for the storage of combustible materials. Caravan owners should ensure vegetation, trees, shrubbery etc should be adequately cut back so as to avoid risk of fire spread between units.

Tribunal Judge John Murray

23 October 2023