



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

Case Reference : **MAN/16UB//PHN/2023/0001**

Property : **'Heatherbank', Mawbray Road, Allonby,
Cumbria, CA15 6PB**

Applicants : **Paul Frost and Debbie Cowling**

Respondent : **Joy Stevens**

Type of Application : **Under reg.10 of the Mobile Homes (Site
Rules) (England) Regulations 2014**

Tribunal Members : **Judge P Forster**

Mr A J Davis MRICS FAAV

Date of Decision : **8 February 2024**

DECISION

(c) CROWN COPYRIGHT 2024

The Decision

- (1) The Tribunal confirms rule 3.2 subject to its power to modify it to read: *“The 5 bar gate at the entrance to Heatherbank is to be kept closed. Once the gate has been opened to allow access to or egress from the Site it must be closed again”*.
- (2) The proposed rule 9.1 is quashed. The Respondent is not entitled to introduce an age restriction because such a rule does not relate to the management and conduct of the Site.

The Background

1. This is an application under reg.10 of the Mobile Homes (Site Rules) (England) Regulations 2014 (“the Regulations”) in respect of proposed new site rules for ‘Heatherbank’, Mawbray Road, Allonby, Cumbria, CA15 6PB (“the Site”).
2. The Applicants are Paul Frost and his partner Debbie Cowling who own a park home which is situated on Plot 1. The Respondent is Joy Stevens who owns and manages the Site which is licenced under the Caravan Sites and Control of Development Act 1960 and is subject to the Act.
3. There have been several previous applications to the First-tier Tribunal in respect of “Heatherbank” involving the Applicant and the Respondent.
4. The Site is set in rural West Cumbria between Maryport and Allonby, approximately 160 metres from the shore. It is small and compact and has existed for many years. It is accessed from the B5300 coast road by a single-lane track which is gated before it bends around the Respondent’s house and garden before entering the Site. There are five residential mobile homes on the Site, aligned parallel to each other and pointing lengthways towards the Solway Firth. Each pitch has a parking space included within it. Immediately outside the Site boundary is a sixth static caravan owned by the Respondent aligned parallel to the five within the Site.

5. The park homes on the Site are all of different designs and began as single units comparable to those often found in holiday parks. Some have been extended. There is a range of storage sheds located within the individual pitches.
6. On 4 February 2023, the Respondent instigated the process to introduce a new set of site rules. She served a Proposal Notice in the prescribed form on the occupiers of the five pitches on the Site. The proposed new site rules were attached to the form.
7. The Applicants responded in writing on 27 February 2023 objecting to the new rules. The occupant of Pitch 4, B Fearn, appears to share Mr Frost and Ms Cowling's objections and their name is appended to the Applicants' letter.
8. It is difficult to follow some of the evidence provided by the parties, but making the best of what is available, it appears that Mr Corrick, the owner of the park home on Pitch 2, has died and took no part in the consultation process. Pitch 3 is occupied by Elizabeth Samson and Pitch 5 by Norma Birtles and Michael Turner and they agreed to the new rules.
9. On 22 March 2023, the Respondent served a Consultation Response on the various occupiers, together with a final draft of the proposed new rules.
10. The Applicants do not take any point with the process followed by the Respondent. They accept that the occupants of two of the pitches are against the new rules and two have accepted them.
11. The Tribunal issued directions and considered that it was appropriate to determine the case on the documents and written submissions without a hearing. Neither party objected to this and the Tribunal convened on 8 February 2024 to make its decision.

The relevant law

12. The Mobile Homes Act 2013 introduced a statutory procedure for the making of site rules. This is found in s.2C of the Mobile Homes Act 1983 ("the Act") and in the 2014 Regulations. In the case of a protected site in England, s.2C(1) gives

site rules the status of express terms of each agreement relating to a pitch on the site to which the Act applies. For this purpose, “site rules” as defined by section 2C(2), are “rules made by the owner in accordance with such procedure as may be prescribed which relate to the management and conduct of the site, or such other matters as may be prescribed.”

13. The new procedure for making, varying or deleting site rules began by sweeping away old rules. By s.2C(3) of the Act any rules made by a site owner before the commencement of the section ceased to have effect. The new procedure was then provided by regulations 7 to 9. In summary the new procedure requires a proposal to be notified to every occupier or qualifying residents association at a site to enable them to make representations within a limited time. A duty is then imposed on the site owner to take any representations received into account and to publish a response to the consultation notifying consultees whether they have decided to implement the proposal or not.
14. Consultees who are dissatisfied with an owner’s decision notified to them under reg.9 following consultation have the right to appeal to the Tribunal under reg. 10 on grounds specified in reg.10(2). There are three possible grounds of appeal, namely that: (a) a site rule makes provision in relation to any of the prescribed matters in Schedule 5; (b) the owner has not complied with a procedural requirement imposed by regs.7 to 9; (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.
15. The Tribunal’s powers when determining an appeal under reg.10 are specified in reg.11. It may (a) confirm the owner’s decision, (b) quash or modify it, (c) substitute its own decision, or (d) order the owner to comply with the procedure in regs.7 to 9 within a specified time.

Reasons for the Tribunal’s decision

16. The Appellant does not take any point about the procedure followed by the Respondent as provided by regulations 7 to 9. The issues to be determined by the Tribunal are limited to rules 3.2 and 9.1.
17. In their statement of case, the Applicants set out their objections to two of the new rules: rule 3.2 and rule 9.1. The Respondent addressed these objections in her statement of case. The Applicants refer to their letter dated 14 September 2022 to the First-tier Tribunal in a previous case, MAN/16UD/PHC/2022/0003. This concerned an unsuccessful application by the Respondent to introduce new site rules. The Applicants had an extensive list of objections.
18. The Tribunal asked the Applicants to confirm that only rules 3.2 and 9.1 were in issue in the present proceedings and if they objected to anything else then they should identify what that is and why. Mr Frost's response on 23 January 2024 was simply to provide a copy of the letter of 14 September 2022 saying that he hoped this will clarify his objections. Mr Frost did not answer the Tribunal's question.
19. Based on the Applicants' statement of case in the present proceedings and the Respondent's response to it, the Tribunal proceeded to determine the objections to rules 3.2 and 9.1 and nothing else.

Rule 3.2

20. Rule 3 seeks to regulate the use of vehicles on the Site. As with the whole document, the provisions are poorly drafted and potentially open to challenge. However, the Tribunal is only concerned with rule 3.2. It states: "The 5 bar gate across the drive at the entrance to Heatherbank property must be kept CLOSED at all times. A notice clearly states 'Please keep the gate shut'. Once the gate has been opened and traversed, it must be closed again immediately".
21. The Applicants object to rule 3.2 in respect of the "site gate closure and opening". They say this is discriminatory under Disability Rights legislation. The Applicant states that there are two disabled residents on the Site and the Respondent's suggestion that residents who have difficulty can telephone the site owner for assistance is "quite ludicrous given that assistance would be

solely dependent on the site owner being present. Such a rule cannot be of ‘general benefit to occupiers’ and ...would be unlawful if allowed”.

22. The Respondent’s case is that 3.2 “is most definitely in the ‘particular interest of, and for the general benefit of any and all who reside, work or visit Heatherbank...this includes neighbouring farmers who keep livestock on Heatherbank land or on their own land adjoining Heatherbank property. The Respondent maintains that since the installation of the gate in 2014, the closed gate has prevented both pet animals and livestock escaping onto the main road. Further it is said that the closed gate deters any unauthorised persons from entering the Site and keeps the speed of vehicles to a minimum.
23. The relevant ground of objection is that the proposed rule is unreasonable. The Tribunal must have regard, in particular, to (i) the responses received in response to the consultation; (ii) the size, layout, character, services or amenities of the site; and (iii) the terms of any planning permission or conditions of the site licence. In respect of this later point, neither party has referenced either planning or site licence issues.
24. The Applicants’ response together with Mr Fearn to the consultation together with Mr Fearn follows the objections put forward in their statement of case. Ms Samson is happy to accept the proposed rules which she says are necessary to “to keep a small residential site safe...as everyone knows what is expected of them for the comfort and pleasure of all”. Mr Turner and Ms Birtles agree to the new rules. Ms Birtles hopes “that they will make our homes a safer place for us to live”.
25. The Applicants refer in very general terms to disability rights legislation without identifying in any detail any specific provisions. Without this detail and with no attempt to balance the issues the Tribunal cannot accept the Appellants’ assertion that rule 3.2 would be unlawful.
26. The members of the previous Tribunal in December 2022 visited the Site and this Tribunal has the benefit of their decision which includes a description of

the Site. Judge Forster has previously inspected the Site in the course of determining earlier applications. The Site is relatively small and has only five pitches. There are few amenities apart from the usual services. The Site is in an isolated rural location accessed by a single-track through agricultural land. The Tribunal notes that neither Ms Samson nor Mr Turner nor Ms Birtles express any difficulties in respect of the gate. Indeed, they express their wish to maintain the security of the Site.

27. The Tribunal accepts the Respondent's argument that a closed gate is likely to be of general benefit of all the residents because of the security it afford the Site. A requirement to close the gate is one that relates to the management and conduct of the Site and falls within s.2C(2) of the Act.
28. The Tribunal confirms the proposal to insert a rule to regulate the operation of the entrance gate but it uses its powers under reg.11 to modify the wording of rule 3.2 to provide greater clarity. Rule 3.2 should read: "*The 5 bar gate at the entrance to Heatherbank is to be kept closed. Once the gate has been opened to allow access to or egress from the Site it must be closed again*".

Rule 9.1

29. Rule 9.1 is about the "age of occupants" and as drafted states that "Heatherbank Caravan Park is essentially a small, quiet, unspoilt area created for the Senior age group. No facilities or amenities are provided for the younger age group". The operative words are "no person under the age of 55 years may reside in a park home, with the exception of the park owner/manager".
30. The Applicants object to rule 9.1. They state in their letter of 14 September 2022 that the age restriction is not necessary in the interests of maintaining the character of the Site and would reduce the value of their property. In their statement of case, they seek to rely on an Upper Tribunal decision "White v Westonhill Residents Association" under reference "LRX/102/2018". This is better known as White v Simpson [2019] UKUT 0210 (LC).

31. The Respondent's case is essentially that an age limit is required to maintain the Site as a "small, quiet, unspoilt area". To the extent that the Applicants rely on the provisions in the Equality Act 2010, it is asserted that an age restriction would not contravene the legislation.
32. The Upper Tribunal held in White v Simpson that a rule preventing persons under the age of 45 from residing in a home on a protected site was not a site rule within the meaning of s.2C(2) of the Act or the 2014 Regulations and it could not therefore be introduced using the statutory procedure provided for in the Regulations.
33. A restriction on the age of residents does not relate to the management and conduct of the site. S.2C(2) is to be taken to require a close connection between the proposed rule and the site itself, and not as covering an age restriction. Rules having to do with the physical environment of the site would fall within this limited class but rules about matters which do not have an impact on the condition of the site fall outside this category and are left to be dealt with by express agreement when a new pitch agreement is entered into.
34. The Tribunal has not been provided with the agreements entered into by the respective park home owners and the Respondent but there is no suggestion that an age limit on residents occupying the Site was ever imposed. Accordingly, the Respondent is not entitled to introduce an age restriction because such a rule does not relate to the management and conduct of the Site.

Judge P Forster

8 February 2024

RIGHT OF APPEAL

A person wishing to appeal against this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional Office, which has been dealing with the case.

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.

If the person wishing to appeal does not comply with the 28-day time limit, that 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.

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.