



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

Case reference	:	CHI/00MR/PHC/2023/0012
Property	:	42 Henderson Park, Henderson Road, Southsea, PO4 9JG
Applicant	:	Portsmouth City Council
Respondent	:	Mr Andrew Pass
Type of application	:	For the determination of any question arising under the Mobile Homes Act 1983
Tribunal members	:	Tribunal Judge H. Lumby Mr D Cotterell FRICS Ms T Wong
Venue	:	Havant Justice Centre, Elmleigh Road, Havant, Hampshire PO9 2AL
Date of hearing	:	15 April 2025
Date of decision	:	15 April 2025

DECISION

Decision of the tribunal

The tribunal determines that

- 1. the Respondent's current fence around the Property is in breach of the Applicant's site rules**
- 2. the fence should be replaced with non-combustible metal panels no greater than 6 feet in height (utilising the existing posts if of sufficient strength to hold the new panels in place), having taken reasonable steps to consult with the Applicant as to the aesthetic appearance of the panels, such replacement to be carried out by 30 May 2025 so far as possible and in any event by 30 June 2025.**
- 3. the Respondent shall make a contribution of £240 towards the application and hearing fees incurred by the Applicant in bringing this case, such contribution to be paid by monthly instalments of £20 commencing on 1 June 2025 (or by such other instalment plan as the parties may agree between them).**

The background

1. The Applicant seeks a determination from the Tribunal for a question arising pursuant to the Mobile Homes Act 1983. The specific determination sought relates to a wooden fence erected by the Respondent around the Property which the Applicant argues is in breach of its site rules. It seeks an order that the Respondent should replace the fence with a non-combustible alternative within such period as the Tribunal thinks appropriate. It also seeks an order for the Respondent to reimburse the fees paid by the Applicant to the Tribunal in relation to this case.
2. The Respondent has resisted the removal of the fence on various grounds and has proposed a number of alternative solutions.
3. The Applicant is the freeholder of the Property and the Respondent is the occupier pursuant to a park home agreement.
4. The application was submitted on 19 September 2023 and Directions were issued by the Tribunal on 4 February 2025.
5. Prior to the hearing the Tribunal received a bundle of documents, running to 177 pages, the contents of which the tribunal have noted. The bundle contained the application and its accompanying documents, a witness statement from Ms Sarah Curtis of the Applicant, the document containing the Applicant's site rules, photographs and correspondence and the Respondent's statement of case.

The hearing

6. The hearing was intended to take place in person. Ms Sarah Curtis, Mr Sam Rickard and Ms Karon Remson from the Applicant attended at the Tribunal. The Respondent was unable to make it to the hearing in person and so joined by telephone.
7. The Respondent accepted that his fence was in breach of the Applicant's site rules. The hearing therefore focused on what was required by way of replacement. The following was agreed by both parties:
 - 7.1. The Respondent would replace the fence panels with non-combustible metal panels
 - 7.2. The existing fence posts could be retained if these were strong enough to hold the new metal panels
 - 7.3. The new panels could be the same height as the existing panels (5 feet) or higher (up to 6 feet)
 - 7.4. The Respondent would take reasonable steps to consult with the Applicant as to the aesthetic appearance of the new panels prior to installing them
 - 7.5. The Respondent would seek to have the new panels installed so far as possible by 30 May 2025, the works would in any event be completed by 30 June 2025
 - 7.6. The Applicant would take no steps to remove the existing fence prior to 30 June 2025, contingent on the Respondent complying with his agreements set out above.

Determination of question

8. Based on its review of the bundle provided and the Respondent's own acceptance, the Tribunal determines that the Respondent's fence is in breach of the Applicant's site rules.
9. The Tribunal agrees that the agreement reached between the parties as to the replacement of the fence is an appropriate arrangement and accordingly makes a decision to give effect to this. It therefore determines that the fence should be replaced with non-combustible metal panels no greater than 6 feet in height (utilising the existing posts if of sufficient strength to hold the new panels in place), having taken reasonable steps to consult with the Applicant as to the aesthetic appearance of the panels, such replacement to be carried out by 30 May 2025 so far as possible and in any event by 30 June 2025.

Costs

10. The Applicant applied for an order that the Respondent be obliged to reimburse the fees it had paid to the Tribunal in bringing this case, amounting to £330.
11. The Respondent made submissions that he had very little income and so would experience difficulty in paying these costs.
12. The Tribunal considered the parties' submissions. It considered that the case could have been avoided if the Respondent had remedied the breach of the site rules at an earlier stage and that the Applicant had acted reasonably throughout the process. However, it acknowledged the constructive approach taken by the Respondent at the hearing and the genuine reasons why he had sought to have a fence around the Property. It therefore concluded that it would be inappropriate to require the Respondent to reimburse all the fees and determined that £240 was an appropriate contribution.
13. In addition, the Tribunal acknowledged that the Respondent's income was limited and he would also be incurring expenses erecting the replacement panels. It therefore determined that the reimbursement could be made by instalments of £20 per month, commencing on 1 June 2025. The parties were at liberty to agree other arrangements.
14. The tribunal therefore determines that the Respondent shall make a contribution of £240 towards the application and hearing fees incurred by the Applicant in bringing this case, such contribution to be paid by monthly instalments of £20 commencing on 1 June 2025 (or by such other instalment plan as the parties may agree between them).

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.