FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/45UC/PHT/2025/0001 & HAV/45UC/PHT/2025/0002
Property	**:**	Thornlea Park Caravan Site, Lyminster Road, Wick, West Sussex BN17 7PY
Applicant	**:**	Turners Britannia Parks Limited
Representative	**:**	Tozers LLP Mr Leb, of Counsel
Respondent	**:**	Arun District Council
Representative	**:**	Ms Lanlehin, of Counsel
Type of Application	**:**	Appeal against a compliance notice served by a Local Authority under section 9A of the Caravan Sites and Control of Development Act 1960
Tribunal Members:	**:**	Regional Surveyor Clist MRICS M J F Donaldson FRICS E Shaylor MCIEH
Date of Hearing:		15th July 2025 and 26th August 2025 for reconvene of written submissions and deliberations.
Date of Decision	**:**	11 November 2025

DECISION

Summary of the Decision

The Compliance Notice dated 5 March 2025 is quashed with the Tribunal finding that the Notice was not valid.

The Compliance Notice dated 18 March 2025 is quashed with the Tribunal finding that the Compliance Notice was not justifiably served.

Background

1. The Property is a protected site within the meaning of the Caravan Sites and Control of Development Act 1960 (the 'Act') and the Mobile Homes Act 1983. The Respondent issued a licence pursuant to the Act on 20 April 2012, subject to the site licence conditions.

2. The above Applications relate to two appeals against two Compliance Notices issued by the Respondent.

3. The first Compliance Notice is dated 5 March 2025 and states that the Applicant has failed to comply with condition 4 of the site licence which relates to the 'Density, Spacing and Parking between Park Homes' and in particular 'concerns the maximum permitted heights of hedges and fences that form boundaries between adjacent caravans on the site'. The application was received by the Tribunal on 26 March 2025.

4. The second Compliance Notice is dated 18 March 2025 and states that the Applicant has failed to comply with condition 4 of the site licence which concerns the 'Density, Spacing and Parking between park homes' and in this case, in particular, relates to the permitted separation distance between caravans. The Respondent avers that the distance between numbers 22 and 24 Arundel Drive is 5.20 metres which is less than the permitted separation distance.

5. The Tribunal were provided with two hearing bundles in respect of each application. The first extended to 157 electronic pages, the second 129 pages. References in this determination to page numbers in either bundle are indicated as [ ]. The reference '01' relates to the hearing bundle for the Compliance Notice dated 5th March 2025 whilst '02' relates to the Compliance Notice dated 18th March 2025.

6. These reasons address in summary form the key issues raised by the Applicant and the response of the first Respondent. The reasons do not recite each point referred to in submissions but concentrate on those issues which, in the Tribunal's view, are critical to this decision.

Site Licence Condition 4

7. Both Compliance Notices concern alleged breaches of Condition 4 of the Site Licence dated 20th April 2012:

Density, Spacing and Parking between Park Homes

The density of homes on a site shall be determined in accordance with relevant health and safety standards and fire risk assessments

Every park home must be spaced at a distance of no less than six metres (the separation distance) from any other park home which is occupied as a separate residence.

The following exemptions apply:

(a) A porch attached to the caravan may protrude one metre into the separation distance and must not exceed two metres in length and one metre in depth. The porch must not exceed the height of the caravan. If there a porch is installed, only one door may be permitted at that entrance to the home, either on the porch or on the home.

(b) Eaves, drainpipes and bay windows may extend into the separation distance provided that the total distance between the extremities of two facing caravans is not less than five metres.

(c) Any structure, including steps, ramps, etc. (except a garage or car port), which extends more than one metre into the separation distance shall be of non-combustible construction. There should be a 4.5 metre clear distance between any such structure and any adjacent caravan.

(d) Windows in structures within the separation distance shall not face towards the caravan on either side.

(e) Fences and hedges, where allowed and forming the boundary between adjacent park homes, should be a maximum of one metre high.

(f) Where a caravan has been fitted with cladding from Class 1 or Class O fire rated materials to its facing walls, then the separation distance between it and an adjacent caravan may be reduced to a minimum of 5.25 metres.

(ii) No park home shall be stationed within two metres of any road or communal car park within the site or more than 45 metres from such a road within the site.

(iii) Private cars may be parked within the separation distance provided that they do not obstruct entrances to caravans or access around them and they are a minimum of three metres from an adjacent caravan.

(iv) A garage or car port may only be permitted within the separation distance if it is of non-combustible construction and is not used for the storage of flammable substances.

Relevant Law

8. The relevant law is set out in the Caravan Sites and Control of Development Act 1960 ('the Act').

9. Section 9A of the Act provides as follows:

(1)If it appears to a local authority in England who have issued a site licence in respect of a relevant protected site in their area that the occupier of the land concerned is failing or has failed to comply with a condition for the time being attached to the site licence, they may serve a compliance notice on the occupier.

(2)A compliance notice is a notice which—

(a)sets out the condition in question and details of the failure to comply with it,
(b)requires the occupier of the land to take such steps as the local authority consider appropriate and as are specified in the notice in order to ensure that the condition is complied with,
(c)specifies the period within which those steps must be taken, and
(d)explains the right of appeal conferred by subsection (3).

*(3)An occupier of land who has been served with a compliance notice may appeal to **[**the tribunal**]** against that notice (for further provision about appeals under this section, see section 9G).*

10. The Tribunal derives its jurisdiction to allow an appeal by virtue of S.9G of the Act which states:

(1)An appeal under section 9A, 9E or 9F must be made before the end of the period of 21 days beginning with the date on which the relevant document was served (referred to in this section and section 9H as "the appeal period").

(2)In subsection (1), "relevant document" means—

(a)in the case of an appeal under section 9A, the compliance notice;
(b)in the case of an appeal under section 9E, the notice under subsection (8) of that section;

(c)in the case of an appeal under section 9F, the demand under that section.

(3) The tribunal may allow an appeal under section 9A, 9E or 9F to be made to it after the end of the appeal period if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

(4)An appeal under section 9A, 9E or 9F—

(a)is to be by way of a rehearing, but
(b)may be determined having regard to matters of which the local authority who made the decision were unaware.

(5)The tribunal may by order—

(a)on an appeal under section 9A, confirm, vary or quash the compliance notice;
(b)on an appeal under section 9E, confirm, vary or reverse the decision of the local authority;
(c)on an appeal under section 9F, confirm, vary or quash the demand.

11. Relevant guidance on the legislative provisions has been provided within the following cases:

Shelfside (Holdings) Ltd v Vale of White Horse DC [2016] UKUT 400 LC gave helpful guidance on the exercise of the FT Tribunal's powers of Appeal which is summarised in the case digest as follows: "Role of the First-tier Tribunal - Appeals from compliance notices were governed by s.9G of the 1960 Act.

An appeal was by way of a re-hearing. The tribunal was obliged to consider all the circumstances prevailing at the time of the hearing before it and to determine whether it was right and proper to issue the compliance notice in the light of those circumstances. The tribunal was required to put itself in the position of the local authority, as the primary decision maker, and having considered all material factors determine what decision it would have made.

The appropriate questions to address in the course of an appeal against a compliance notice issued under s.9A were whether (a) there had been a breach of licence conditions; (b) service of the compliance notice was justified; (c) if so, whether the remedial works required were reasonable and proportionate to the nature of the breach (paras 9-10, 31)".

Martin Rodger KC Deputy Chamber President in the second Upper Tribunal Decision of Shelfside (Holdings) Ltd v Vale of

White Horse DC [2017] UKUT 259 explained that at (15): "Moreover, on an appeal to the FTT against a compliance notice, the question for the tribunal is whether the facts stated in the notice are made out. In reaching its own conclusion on that question the FTT will apply the civil standard of proof".

Martin Rodger KC then went onto say at (18- 21; 25): "The general rule in civil proceedings is that the party who asserts a fact must prove it. On an appeal to the FTT under section 9A of the 1960 Act against the service of a compliance notice the relevant facts are those asserted in the compliance notice itself, namely that the occupier of a protected site has failed to comply with a condition attached to the site licence for that site.

Although section 9A(1) permits a local authority to serve a compliance notice "if it appears" to it that there has been a failure to comply with a condition, those words should not be taken to dilute the requirement of proof of non-compliance if there is a challenge to the notice. It is not then the appearance of non-compliance which must be proved, but non-compliance itself. An appeal under section 9A is said by section 9G(4)(a) "to be by way of a rehearing". That choice of language may appear slightly strange in this context, since there will not previously have been any process which could sensibly be referred to as a "hearing". Nevertheless, the intention is clear: on an appeal to the FTT against a compliance notice the FTT will not determine whether the local authority was entitled to conclude on the evidence available to it that there had been a failure to comply with a condition of a site licence, but will decide for itself whether there was or was not such a failure. When it does so, the FTT may have regard to matters of which the local authority was unaware (section 9G(4)(b)). In its grounds of appeal the appellant asserts that the 1960 Act contains no provision that has the effect of requiring it to prove compliance with the site licence. I agree. The flaw in the appellant's argument is that overlooks the fact that a point is often reached in proceedings where the evidence relied on by the party which has the burden of proof is sufficient to discharge that burden and will do so unless evidence is provided to counter it".

The Inspection

12. The Tribunal inspected the site immediately prior to the hearing. The inspection was attended by the Tribunal panel, Mr Leb, counsel for the Applicant, Ms Peachey Group Manager for the Applicant, Ms Wheat Area Manager for the Applicant, Ms Lanlehin Counsel for the Respondent and Mr Williamson, Environmental Health and Licensing Manager for the Respondent Council.

13. At the outset of the inspection, the Chair explained to the parties that the Tribunal panel itself would not take any measurements on site as per the

invitation to do so made within Mr Leb's skeleton argument, preferring to rely upon the evidence provided by the parties to be presented at the subsequent hearing. Either party was welcome however to direct the Tribunal to any relevant part of the site that they would like to draw attention to, but any submissions would be dealt with during the course of the hearing.

14. The site was well established with a number of homes of various ages and styles. The site entrance was off the A284 Lyminster Road on to the central road, Arundel Road. The northern boundary of the site was adjacent to Black Ditch. The rear of the site to the west was known as Kingsmead. We noted that many of the homes were separated by well established hedges and shrubs, some of noticeable height. Fencing styles varied, some consisting of trellis additions, some of which were noted to appear also of substantial height.

15. The panel were taken to 22 and 24 Arundel Drive. The plot of 22 Arundel Drive appeared to be a larger plot than that of 24 Arundel Drive, number 22 being a double size park home and number 24 being a single.

16. Neither party directed the Tribunal to any other aspect of the site.

The Hearing

17. Following conclusion of the site visit, the parties travelled to Havant Justice Centre to commence the hearing.

18. The hearing was attended in person by Mr Leb of counsel and Ms Peachey, witness for the Applicant. For the Respondent, Ms Lanlehin of counsel. Ms Rollings, witness for the Respondent appeared remotely following an approved case management application due to difficulties attending the location of the Hearing.

19. It was confirmed that the Tribunal had received the Applicant's skeleton argument but not that of the Respondents. Ms Lanlehin confirmed that she had been unable to submit the same prior to the hearing but would endeavour to supply the Tribunal with copies before the Tribunal adjourned for lunch>

20. Both parties agreed that the two cases should be dealt with jointly during the course of the hearing given the witnesses were the same for both applications. The relevant bundles for each would be separately referenced where appropriate.

21. An overview of the morning inspection was given by the chairperson.

22. Ms Rollings communicated that she was experiencing technical difficulties. Despite various attempts to improve the sound quality, the issue could not be resolved. The hearing was therefore adjourned to

allow for a lunch break and it was agreed that Ms Rollings could dial into the remote hearing platform via telephone in the alternative.

23. Upon return, Ms Lanlehin confirmed there continued to be some technical difficulties and the hearing was further disrupted until a resolution was found with new audio equipment.

24. Owing to the delay to the proceedings, the parties agreed that there may be insufficient time to conclude the hearing. On the basis of such, the parties were content to reconvene for closing statements, or provide them in writing. It was agreed that this would be reviewed at the end of the hearing.

25. Mr Leb gave his opening statement. He explained that there were two appeals in relation to two Compliance Notices served by the Respondent. The first notice was served on 5th March 2025 in relation to the height of various hedges and bushes on the site. The second notice was served on 18th March 2025 regarding insufficient spacing between two units.

26. It was said that the appeal was lodged on a number of grounds, the first being whether enforcement is appropriate. There were alternative means of dispute resolution available and in all cases the Mobile Homes Act 2013: A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime should be followed. It was said that the Respondent had not duly followed the same.

27. As a general point on both notices, it was said that s.9A of the Act is permissive, allowing the local authority to serve a notice where there appears to be a breach, specifying the remedy or remedies the occupier should take as the local authority deems appropriate. The local authority had not engaged with the exercise of assessing what was appropriate.

28. Mr Leb referred to paragraph 31 of the *Shelfside (Holdings) Ltd v Vale of White Horse DC* [2016] UKUT 0400 (LC) HHJ decision, which dictate how the Tribunal should conduct proceedings. It was said that the test is to the civil standard with the burden on the Respondent to prove non-compliance of the site licence and whether it was appropriate to serve compliance notices. The Tribunal were to ask of itself three questions in accordance with paragraph 31 of the Shelfside judgment:

    a) Has there been a breach?
    b) Was the service of the notice(s) justified?
    c) If so, are the remedial works required reasonable and proportional to the nature of the breach?

29. With regards to the separation distance, subject of the second appeal, it was said that there was no breach. If there is, the breach would be de minimis. The Respondent ought not to have served a notice as the range of options were not explored and it failed to exercise its discretion.

30. In relation to the first appeal regarding the hedge and fence heights, it was said that the Respondent had not engaged with any dispute resolution prior to serving the notice. The notice itself was not properly itemised as to the locations and nature of the alleged breach.

31. In both cases, there had not been reasonable time allowed for compliance.

32. Ms. Lanlehin gave her opening statement, explaining that there were conditions attached to the Applicant's site licence. The standard of proof was to the civil standard, on the balance of probabilities. The Tribunal had to ask of itself whether there had been a breach of condition in each case, was it appropriate to issue notices in relation to the same and in accordance with the guidance and had there been reasonable time allowed for compliance.

33. The notices had to be issued where it was clear there had been breaches in relation to both applications.

34. The Respondent had given the Applicant adequate time to comply. Prior notification of the breach had been given before the notices were issues. The Compliance Notices were not the main course of enforcement and the Applicant could have remedied any breaches within that time. If the Applicant felt there was insufficient time, it could have communicated the concern to the Respondent.

35. It was said that there were clear breaches to the site licences.

36. Mr Leb called Ms Peachey to give evidence who gave confirmation of her statements in respect to both applications.

37. Ms Lanlehin questioned Ms. Peachey.

38. Ms Peachey explained that her understanding of the purpose of the site conditions relating to the height of hedges and fences was in relation to fire safety.

39. Upon questioning as to her understanding of the term 'should be', Ms Peachey said that the hedges should be 1 metre but that it would not be enforceable if that was not the case. The word 'must' had not been used in the site condition and as such it was not enforceable, particularly where higher boundary treatments had been in place for many years.

40. Ms Peachey added that she personally manages 38 parks with the Applicant purchasing the subject site in 2012. A solicitor was instructed in relation to the same and had provided a purchase pack to the Applicant. The site licence was transferred to the Applicant so there was no reason to believe there were any breaches in existence at the point of purchase.

41. After some initial confusion as to whether the Applicant had received any correspondence from the Respondent prior to the issue of the Compliance Notices in March 2025, the Ms Peachey confirmed that she had sent an email on 8 November 2024 to Kate Giddens of the Respondent Council to try to resolve the issue of spacing between the two units. Ms Peachey had made reference within that email to the comments of the Fire Officer who was present at the inspection with site manager Ms Wheat. It was said by the Fire Officer that 5 cm additional separation would make no difference in the event of a fire. Ms Peachey had wanted to discuss the implementation of other measures to address the Respondent's concerns such as a linked fire alarm between the units or metal fencing to reduce fire spread.

42. Ms Peachey agreed that licence conditions were a separate matter to fire safety enforcement.

43. In relation to the second Compliance Notice, Ms Peachey explained that the residents were distressed that their homes may need to be moved. One resident had recently undergone surgery and moving was inconvenient. Neither home owner wanted to sell their home.

44. Ms Peachey stated that the Applicant had 2,600 plots nationwide and it was not practical to measure each and every plot to ensure compliance with site licence conditions.

45. In order to achieve compliance with the condition as to spacing, Ms Peachey explained that the one unit would require re-siting. The brick skirt of one unit would need to be removed and services decommissioned before the unit could be moved. Ms Peachey was doubtful as to whether the unit would survive the move given its age. A brick foundation would then need to be rebuilt. Whilst the homes themselves were considered to be mobile structures, the surrounding and supporting components were not.

46. Ms Peachey did not accept that the age of the unit increased the fire risk. As far as she aware, the unit was built in accordance with regulations and an increase of 2-3cm would make no difference to fire risk.

47. Ms Peachey accepted that the Applicant was forewarned of the concern of a breach with respect to the spacing issue and were aware of that the Respondent would carry out an inspection. However, it was said that during the course of the inspection the Respondent rejected all of the Applicant's proposed resolutions such as alarms and bells.

48. Ms Peachey stated that she did not know how the unit(s) could be physically moved 2-3 cm as permission was required from the home owners which she was doubtful could be gained. It was accepted that steps would need to be taken, including the possibility of legal action but the residents needed to be consulted fully. All were aware of the situation and have undergone months of worry.

49. It was accepted that the Applicant had not taken such steps. Ms Peachey explained that it was not desirable to take legal action against the home owners. The Applicant recognised that it was their homes and as such any legal action would be a last resort. The process would take considerable time.

50. Ms Peachey acknowledged that the Applicant had not requested any extensions of time from the Respondent but that was due to having lodged the appeals against the issue of the notices.

51. It was put to Ms Peachey that in relation to the height of boundary treatments that it should be sufficiently clear it is a requirement that the maximum height of the hedges and fences is 1 metre. Ms Peachey refuted the statement as the some of the locations given in the cover letter were site boundary fences and as such excluded from the condition. In other cases, it was said that trellis was not the same as fencing. The fire officer had stated that trellis is not a solid structure and as such does not form a fence. It was said that the fire officer was so unconcerned that he did not want to return to the site to discuss the matter further.

52. The residents were said to oppose the Compliance Notice given the length of time that many boundary treatments had been in place.

53. Ms Peachey explained that some trellis was attached to a fence panel whilst others were part of the panel itself, in which case the whole fence would need to be removed. The Applicant could not enter the home owners' land and remove fences or cut hedges as it was not emergency works. They would therefore need to apply to the Tribunal for permission. They had not done so as they had told the homeowners that they were fighting the compliance notice.

54. Ms Peachey confirmed that the Applicant had not therefore asked any homeowner to carry out any works to achieve compliance. The Applicant pays the licence fee and has an annual inspection by the Respondent in respect of the same. It was unfair to be issued with a Compliance Notice now over matters which had been longstanding and not previously recorded. The residents had asked the Applicant to challenge the notice legally.

55. Ms Peachey was referred to a letter dated 12 November 2024 [p.49/01] whereby the Respondent had notified the Applicant of a potential breach of site licence condition 4(e) and of the date of its intended inspection. Ms Peachey confirmed that the inspection was 16 December 2024 and that there had not been any informal action prior to the 5th March 2025 when the Compliance Notice was issued. Prior to that the Respondent had been investigating the matter.

56. Ms Peachey stated that the Applicant had instructed solicitors to engage with the Respondent, advising of the difficulty in enforcing the conditions. The Applicant wished to work with the residents. The

decision was taken that appealing the Compliance Notice (01) was easier than taking 30-40 residents to the Tribunal for enforcement.

57. It was said that if the Tribunal were to confirm the Compliance Notice (01), the Respondent would need to reinspect the site as details contained within the cover letter were not sufficiently clear as to what boundaries were being referred to in all cases. As an example, Ms Peachey stated that the numbers provided for Walters Green do not exist and so it was not sufficiently clear what the Respondent was referring to. In other cases, there were instances whereby the fences and hedges were listed that were along the boundary of the road. Ms Peachey said that those were site boundaries and therefore did not fall under the condition of 1m height restriction.

58. Ms Peachey explained that there had been a meeting with residents explaining the compliance notice (01). This approach was taken over writing to homeowners individually to achieve compliance.

59. Ms Peachey added that no alternative resolutions had been explored with regards to the hedges and fences as she did not believe the Compliance Notice relating to the same was valid due to the lack of clarity as to the locations of alleged breaches. It was said that Ms. Wheat had requested a joint inspection with the Respondent to gain clarity on the matter but the Respondent undertakes the practice of arriving at site without announcement. Prior notification of arrival had been requested but had not received any response.

60. In relation to the spacing issue (02), Ms Peachey confirmed to Ms Lanlehin that they were not the only plots affected. There had been a Compliance Notice served in relation to two other units that had been in situ since 1973. The case had been brought to the Magistrates Court who dismissed the proceedings.

61. At this point the parties were reminded by the chair that the Tribunal panel were not aware of any proceedings in other courts. Further, evidence of the same had not been provided for within the bundle.

62. Ms Peachey confirmed that the Applicant had obtained quotes for the re-siting of the unit which equated to approximately £22,000 but the same had not been included within the evidence, only an estimate [P.38/02]. It was said that the site was run commercially. The cost of moving a unit was not an issue, it was the principle. The homes had been in situ since the 1970's, the residents were of low income and vulnerable. The Applicant had explored the option of purchasing the homes and moving them once the residents were no longer in occupation but the same had been rejected by the Respondent's solicitors. The Applicant wanted to achieve compliance at a suitable time for the homeowner. There was a concern that if the homes were to be sold or gifted to a family member, the Applicant would not be notified and so the breach would continue. This could be overcome if they were to fall under the Applicant's ownership.

63. Ms Peachey confirmed that evidence of communication with the Respondent's solicitor had not been included within the evidence. The Solicitor had left employment at the local authority and so the Applicant had not received any further responses. Ms Peachey had said that she had engaged with the Respondent after the inspection in December 2024 but was informed that the matter was with the Council's legal team and had 'gone too far' for any informal resolution.

64. The Applicant did not want displace residents of their homes.

65. Mr Leb had one further question for Ms Peachey relating to her earlier evidence of the Residents' concerns. Ms Peachey explained that if a park home were to be moved and destroyed in the process, the home-owner would bear the expense of obtaining a new unit or face homelessness. An affected resident had had multiple surgeries recently and the Applicant was trying to avoid any further problems for the resident. Another resident was experiencing signicant stress since the service of the Compliance Notice and was in constant communication with the Applicant regarding the same. The homes had been in situ for decades. The Respondent ought to have brought the issue up sooner. The worry for the residents is very real and is an ongoing concern for all.

66. The Tribunal questioned Ms Peachey.

67. Ms Peachey believed that only number 24 Arundel Drive would need to be re-sited. She was not certain when the home was installed as the manufacturer was in receivership. It was likely to have been over 15 years or so.

68. Ms Peachey believed that number 24 had no cladding but the cladding on number 22 was fire-retardant as the cladding was installed under a council backed grant and so should have met fire safety requirements, hence the required distance being 5.25m rather than 6m. She believed the shortfall was therefore approximately 3cm.

69. Ms Peachey stated that the site currently has two vacant pads but they were sold. There was therefore no alternative plots available and so the remediation would need to be carried out with the home in situ, extending the existing pad.

70. Ms Peachey explained that the Applicant found the offer to buy homes to be an effective resolution where there were breaches of site conditions but the proposal had not been put to the occupier as yet to minimise any worry. An agreement for a sale could take place once the home-owner ceases occupation but this was rejected by the local authority.

71. Ms Peachey confirmed in relation to the hedges that she was unaware of the location of the hedges and fences which were said to be in breach of condition 4(e) until the cover letter accompanying the notice was received on 5th March 2025. The Applicant had not been informed prior

to that date. She was unsure whether the cover letter had been included in the same envelope as the notice itself or not.

72. It was said that the Applicant had written a letter to the Respondent with its concerns regarding the location of the hedges and fences but the same had not been included within the bundle.

73. Ms Peachey explained that the Respondent's letters regarding inspections had initially been sent to head office and there was a delay in passing the same to the site for Ms Wheat's attention.

74. Ms Rollings confirmed her statements. Ms Rollings confirmed that she was a contractor for the Respondent covering Kate Giddings's workload whilst she is on maternity leave. In respect of her statement, she wished to alter the same to confirm that she had no prior knowledge of the site prior to April 2025.

75. Mr Leb commenced his questioning.

76. Ms Rollings confirmed that her contract commenced in April 2025 and that she had never been to Thornlea Park. Her evidence was the product of a review of the paper file.

77. Turning to page 42 of the second bundle, Ms Rollings confirmed that the presence of gas canisters was not relevant to the subject site but had been including in her statement when discussing fire safety in general.

78. Similarly, the exampled of fires at Harlow and Cambridge were not directly relevant to the subject site but included to demonstrate the result of fire damage. Ms Rollings confirms that the evidence in respect of the same was speculative, acknowledging that these types of incidents occur. The examples and commentary were included to explain the decision undertaken by Ms Giddings.

79. Ms Rollings explained BRE 1991 research on separation distances stated that distances should not be reduced below 6m as a safe distance. Ms Rollings was not aware whether research had changed but the 6metre requirement remained a model standard, or 5.25m where fire-retardant cladding is installed.

80. In her opinion, a deficit of a few centimetres would make a difference otherwise the required distances would not be quoted or be site licence conditions.

81. Ms Rollings, whilst acknowledging that she did not personally serve the Compliance Notices, was not aware of any consultation with the residents concerned with the separation issue. She added that she was not aware of there being a requirement to consult with residents. Compliance was the responsibility of the licence holder.

82. Ms Rollings explained that enforcement officers had a general duty to enforce regulations. It was said that discretion can be exercised and Arun District Council were very good at being consistent and detailed. Ms. Giddings would not have taken this action by herself, sign-off was provided by her manager.

83. There was no evidence on file of that the Respondent had spoken with any residents at Thornlea Park. It was not believed that there was a requirement too. Ms. Rollings believed that there would have been a record made on the file if there had have been.

84. It was said that all options would have been considered in addition to enforcement actions.

85. Ms. Rollings confirmed that she was familiar with the Mobile Homes Act Guidance 2013. In reference to F80 'Enforcement Policy', Ms Rollings opined that paragraph 3.2 relating to the consideration of home-owners' interests was only guidance and not a statutory requirement. Regardless, safety is within the interests of home owners. Every cm increases the risk of fire spread and she did not think it was within the home-owners' interests to ignore such a risk.

86. Ms Rollings explained that people's wants may not align with safety. She did not think it right to relax those standards. The Respondent's enforcement policy was based upon the guidance, although the policy had not been included in either bundle. The regulation was in place for the licence holder to maintain safe distances. The licence holder has a duty to comply not the residents.

87. Ms Rollings accepted that the homeowner's home may be destroyed in transit and that the Applicant was under no obligation to indemnify the same. Notwithstanding, Ms Rollings opined that homelessness was better than death. If the resident is elderly it may not be possible to leave the premises quickly or ring a bell in the event of a fire as the Applicant had suggested.

88. The distance between units 22 and 24 was clarified by Ms Rollings. On one measurement the deficit was said to be 3cm, on another it was 5cm. She could only rely upon the BRE research that she had knowledge of to support the view that there would be a fire safety benefit if the distance was increased by another 3-5cm. Ms Rollings confirmed that the Respondent had not included the BRE Research within its evidence, nor had any other document or evidence from a fire safety expert been included.

89. Ms Rollings continued to state that every cm of distance decreased the risk of fire spread. A larger distance was required if the homes were not clad in fire-rated cladding. Ms Rollings acknowledged that it is a difficult decision to undertake enforcement and cited examples whereby HMOs had been closed down making several people homeless but enforcement action was necessary to potentially save their lives.

90. Ms Rollings accepted that the Respondent has discretion where a breach is found but that is a power and not a duty to exercise it.

91. It was said that the Respondent follows a process in every case according to the applicable legislation. Accountability was a factor dependant upon the relevant legislation in each case. In this case, Ms Rollings stated that she did not personally make the decision to issue the Compliance Notices but she could assure the Tribunal that Ms. Giddings would not have taken the decision lightly, nor would her manager that authorised the issue of the two notices. There was no record for the justification of the enforcement action but it was said that the same was not required where there was a clear breach.

92. Ms Rollings was taken to paragraphs 25 and 36 [p.46/02] which referred to a separation distance shortfall of 78cm. It was said that it was likely to have been stated as 78cm as confirmation of fire retardant cladding had not been received at the time.

93. Ms Rollings acknowledged that whilst the Respondent's environmental health team were not fire safety specialists, the BRE research was undertaken by a bona fide company and was based upon numerous tests. Conclusions as to required separation distances had been reached based on the such.

94. Ms Rollings confirmed that she had read the Caravan Sites and Control of Development Act 1960 although not cover to cover. She understood the purpose of the legislation to be that of safety.

95. In Ms Rollings opinion, she felt that it was clearer to issue separate compliance notices to deal with separate issues rather than including all breaches on one Compliance Notice. Additionally it helped when an appeal is lodged with the Tribunal. She did not have any personal knowledge of any internal guidance within the Arun District Council as to how many Compliance Notices should be served.

96. It was confirmed that there were other outstanding issues on the site that the Respondent needed to deal with but not necessarily by enforcement action. There remained to be breaches of licence conditions on the site that the Respondent had a duty to investigate further.

97. Ms Rollings believed there would be instances were the Respondent would take alternate actions other than serving Compliance Notices. The decision as to the required action would be made based on how the license holder interacts with the council and on past performance. There was no obligation to take the cost of remediation or the home into consideration of taking enforcement action.

98. Council employees would be accountable if a fire occurred and spread where there were none breaches of separation distances. The Council

would be asked why it had not taken enforcement action in such an event.

99. Ms Rollings confirmed that the service of a Compliance Notice is the first step to prosecution . It was therefore important given potential criminal consequences of non-compliance that the notices were as accurate as possible.

100. With refence to the first Compliance Notice relating to the hedge and fence heights, Ms Rollings said that it was not necessary for the council to stipulate measurements of each and every hedge and fence. The onus could be put on the licence holder to undertake its own investigations. She considered that the Compliance Notice did sufficiently inform the licence holder what the breach is.

101. Notwithstanding, Ms Rollings confirmed that she had not physically inspected the site and so could not inform the Tribunal which hedges and fences were in breach of condition 4(i)(e).

102. Ms Rollings was not sure whether the Respondent should have consulted with homeowners as to their preferences. The Respondent takes action to protect people by following the legislation.

103. There was no information on the file as to how Ms. Giddings reached the decision to issue Compliance Notices the file, nor was there a risk assessment present although Ms Rollings was not convinced that there was a requirement for either.

104. Ms Rollings accepted that the words 'should' and 'must' have different meanings, although in the respondent's interpretation of the site licence conditions, 'should' was considered to mean 'must'.

105. Ms Rollings was not aware whether there was a fee to vary a Compliance Notice. It was for the Respondent to decide whether to make a variation.

106. It was said that the Respondent could not allow a continuation of any breaches, even where historic. The financial means of a licence holder were not a consideration for the Respondent. It was merely clearer to issue separate notices in relation to separate breaches. Ms Rollings refuted the suggestion that separate notices were issued as there would be a financial benefit to the Respondent if the Applicant was prosecuted, adding that that would be unethical and probably illegal to do so.

107. Ms Rollings confirmed that the Applicant had received two separate Compliance Notices over the space of two weeks. She could not say what Ms Giddings' mindset was at the time but she would have made the same decision.

108. With regards to the hedge and fence heights, Ms Rollings was not aware of any liaison with the fire service as to the risk of spread. The 1m height restriction was a licence condition that had to be enforced. Dry weather

in particular would easily increase the risk of fire spread from one caravan to another. She could not advise on why the timescales for remediation were given as she did not issue the notice but acknowledged that it would not be advisable to carry out works over the time of year of the nesting season.

109. The Tribunal questioned Ms Rollings.

110. Ms Rollings explained that initially the separation shortfall of units 22 and 24 was 78cm prior to having received further information from the Applicant. The onus was on the same to prove that the cladding was fire-rated. Ms Rollings stated that the case management database had made reference to a document received by the Applicant in relation to cladding that gave a 25 year guarantee. Ms Rollings explained that having undertaken some research related to Avo Plast adhesive and sealant which was fire rated. Mr Leb referred the Tribunal to the same document [p71-73/02].

111. Ms Rollings said that the Respondent's position was now that it accepted number 22 had fire rated cladding but number 24 was not clad.

112. Ms Rollings stated that requirement for the hedge and fence height to be under 1m was based upon the model standard. The cover letter to the Compliance Notice was the first instance whereby the Applicant had been made aware of the location of the hedges and fences said to have been in breach.

113. At the end of the hearing the Chair advised the parties that the Tribunal would issue directions to determine the parties' availability for a reconvene to hear both parties' closing statements. It was acknowledged that this may prove difficult given the summer period and inevitable periods of annual leave, including that of the Tribunal panel itself. Both parties advised that they would be content to provide written closing statements if there was no mutually acceptable date available.

114. Having received responses from Directions issued 16 July 2025, there was indeed no acceptable availability for a reconvene. On the basis of such, the parties were issued with further Directions dated 01 August 2025 for the submission of closing statements within 14 days. The Directions were duly complied with and the tribunal thanks both parties for their submissions.

115. Ms Lanlehin's closing statement addressed each ground for appeal for each Compliance Notice. Ms Lanlehin cited the law, submitting that the Tribunal must determine the facts on a balance of probabilities and must consider whether the conditions and requirements are reasonable having regard to the Model Standards 2008 for Caravan Sites in England (the 2008 standards) and public safety.

116. The second notice in relation to the spacing distance was first addressed. Having cited the requirements of Condition 4 (i) and the cladding

exemption, it was said that the fact that the caravans have been in situ for a significant period of time does not negate the fact that the licence condition is being breached. Furthermore, there had been no evidence that the cladding was of the required standard. Ms Rollings had sufficiently justified the necessity and enforceability of the condition whilst emphasing the seriousness of fire safety.

117. Ms Lanlehin stated that paragraph 5.11 of the Mobile Homes Act 2013: A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime allowed for discretion in urgent or safety related cases. Given the seriousness of the breach and the clear guidance under the model standards formal action was reasonable and appropriate. In any case, it was said that the Respondent had taken informal action, referring to the first notification of the issue to the Applicant on the 6th November 2024 and the Applicant's response on the 18th November 2024. An inspection had been undertaken on the 16th December 2024 and with the Respondent having provided sufficient notice prior.

118. There had been no evidence that the Applicant had taken any steps to comply with the notice to date.

119. The condition was designed to be achieve minimum fire standards. A separation distance deficit of 3cm was not said to increase fire risks significantly but there was nonetheless an increased risk.

120. Ms Lanlehin continued to acknowledge that the fire safety office had no concerns regarding a '3m' distance, there were no other remedies available for the fire risks of units being with the '3m' separation distance.

121. The Respondent acknowledges the difficulty surrounding the remediation to move the unit(s) but submits that the age of the units, risks to occupiers and lack of progress in achieving compliance justifies the service of the notice.

122. It was said that there had been no attempt by the Applicant to comply with the 4.5 month timescale. No evidence had been provided as to difficulties in complying within the timeframe, nor had a request for an extension of time been received. A lack of forward planning did not render the timeframe unreasonable.

123. With respect to the first Compliance Notice, it was said that the wording used under condition 4 (i) (e) was mandatory being based upon the model standards and national fire safety guidance.

124. It was said that the Compliance Notice itself was sufficiently clear with the alleged breach and extent set out alongside the condition said to be in breach. The Notice stated that several fences and hedges were in breach with works specified was to "Ensure the maximum height of fences and hedges that form boundary between adjacent caravans does not exceed one metre." Additional detail was provided within the cover

letter leaving the Applicant in no doubt as to the nature of the breach. Furthermore, the Applicant's communication with the Respondent indicated an understanding of the breach, such as references made to trellis. The Applicant understood what was required and had there been any doubt, they could have sought clarification from the Respondent.

125. Ms Lanlehin stated that the Applicant could have written to all home owners or arranged a meeting to ensure their boundaries did not exceed 1 metre. The Applicant had demonstrated that their attitude was to ignore the breaches as soon as it became apparent that they may experience some inconveniences. No attempt had been made to carry out any remedial works.

126. It was said that the timeframe of 79 days was excluding the four months prior to the issue of the notice that the Applicant could have taking action. Mitigation, such as phasing, could have been taken to address the issue of nesting season to which fell into the timeframe for compliance. The number of occupiers was not a sufficient excuse, nor does it negate the Applicant's duty.

127. As the site contains 146 homes, the potential impact of non-compliance is wide. The duty lies with the Applicant to maintain licence compliance. Any offer of work towards an agreed schedule is belated. The notices simply require that the minimum legal standard is met.

128. In conclusion, the Respondent acted reasonably and proportionately in taking enforcement actions. As such the appeal should be dismissed and enforcement notice upheld in full.

129. Mr Leb provided two closing statements in respect for each Compliance Notice.

130. With respect to the first Compliance Notice addressing the hedge and fence heights, Mr Leb provided a background to explain that the Applicant had held the site licence for the last 13 years without complaint until November or December of 2024. Following the Respondent's site visit, it served the Compliance Notice dated 5th March 2025 with the Applicant immediately lodging its appeal to the Tribunal.

131. Mr Leb explained that there had been another Compliance Notice, served prior to the subject to which the Respondent had sought to prosecute the Applicant at Crawley Magistrates Court. The Court dismissed the same on 20 March 2025. Mr Leb says this information is relevant to the Tribunal as it demonstrates the Respondent's unreasonable approach to enforcement action.

132. It was said that the Applicant puts the Respondent to proof that there are any hedges or fences exceeding 1 metre height. Mr Leb explained that Ms Rollings did not include any measurements to evidence the same.

133. It was the Applicant's primary case that the wording used within the condition was a recommendation rather than mandatory, distinguishing between the meaning of 'must' and 'should', citing a qualitative difference. Ms Rollings was unable to explain why different wording had been used.

134. Mr Leb stated that the notice failed to provide the particulars of the purported breaches nor did it identify how to remedy them. This was unacceptable and procedurally unfair whereby the notice was a precursor to criminal proceedings.

135. It was said that the service of the notice was inappropriate whereby the Respondent had failed to exercise its discretion in accordance with policy and purpose of the legislation. Ms Rollings was unable to explain the health and safety benefit of hedges and fences below 1 metre. It was baffling that the Respondent had commenced enforcement action against the Applicant in circumstances where it can scarcely justify its decision on appeal.

136. Ms Rollings had no direct knowledge of the decision to issue the Compliance Notice but in stating what she what have done said that the Mobile Homes Act 2013 guidance was out of date and the Respondent's own policy would have been followed however, the same was no provided in evidence to the Tribunal. Ms Rollings had said that it was her role to enforce the law and the rules. She had answered in the negative when asked whether she would consider it appropriate to serve a compliance notice.

137. It was said that the Respondent had failed to adopt a staged approach to enforcement and it had ignored the broader 'Enforcement Policy' at section 3 of the Guidance, referencing the following:

> *"3.1 Government does not envisage that local authorities should, from the 1 April 2014, rush to serve compliance notices on site operators for breaches of site licence conditions where there is not a significant risk of harm, particularly in the circumstances where the breach has existed for many years. It is expected that local authorities' actions and demands should be reasonable and proportionate.*
>
> *3.2 In every case where enforcement action is proposed, the interests of home owners, as well as the site operator, should be considered. Also in the case where a breach of the site licence condition is only impacting on an individual home*

owner, consideration should be given to the consequential impacts on other home owners. This may mean drawing a line under existing site licence condition breaches, where there is no risk of significant harm to persons or property, to enable all to move forward in a constructive and positive way.

3.3 It is intended that local authorities should focus their enforcement on poorly managed, badly run sites; such risk based enforcement will serve to deliver a fair and level playing field for businesses operating in the industry."

138. The Respondent has failed to consider sufficiently, or at all the Guidance. As such, the notice was served inappropriately, irrationally and / or disproportionately.

139. It was said that the Respondent had given no consideration to the welfare and vulnerability of the occupiers, nor to their financial means. There was no consideration to any other more proportionate remedy.

140. The notice was said to have been wholly unreasonable. The Applicant would need to arrange for full access to inspect each fence and hedge, identify the owners of the same, ask said owners to carry out the works to achieve compliance and if, in default commence individual court actions against each owner. Ms Peachey's evidence in respect of such was unchallenged by the Respondent.

141. The notice did not comply with the requirements of S.9A of the Act, lacking the necessary particulars.

142. Mr Leb therefore submitted that the notice ought to be quashed on the grounds that there was no breach, the notice did not meet the requirements of the Act, and if, there was a breach, the notice was served inappropriately.

143. Mr Leb's second closing statement provided the same background as the first, adding that the Respondent had given very little prior notice of its inspection. Consequently, the Applicant was unable to verify the measurements taken by the Respondent. Mr Leb also referred to *Shelfside (Holdings) Ltd v Vale of White Horse DC* [2016] UKUT 0400 as to matters the Tribunal ought to consider.

144. The Respondent is put to proof of the separation distance. If a breach is out made, the service of the compliance notice was inappropriate.

145. Firstly, the Respondent did not exercise its discretion. The furtherance of prevention of fire will have to be balanced against other objects of regulation of caravan sites. A 5cm deviation is de minimis. There is no proper evidence that any difference would be made to the prevention of an outbreak of fire. Ms Rollings' had said that any breach needs to be enforced regardless of the same. Her evidence as to fire safety was speculative and inapplicable to the facts of the case. There was no evidence of any fire safety benefits for an additional 5cm distance between the two units. Further, she had been unable to provide any supporting policy or documentation of the same.

146. Ms Rollings was not concerned that the Applicant had valid fire safety assessments in place nor that the fire brigade had any concerns. She was only concerned with enforcement and the Respondent had not considered the wider fire safety implications of the spacing issue. Her evidence was ex post facto rationalisation of the Respondent's decision to issue the notice.

147. The Respondent had simply wanted to commence enforcement or, more cynically the motivation to do so had been for the raising of revenue. There had been no consideration of best practice guidance and the Respondent's internal policy had not been included within bundle or provided to the Applicant. Ms Rollings as a witness had evidenced the culture of officialdom at the Respondent, characterised by a slavish adherence to a selection of rules and wilful ignorance of others. The position of the licensees as elderly and vulnerable had not been considered. When questioned on their interests, Ms Rollings said it was better to be homeless than dead which was staggering where the Applicant has consistently indicated a willingness to consider other solutions. There had been no consultation with those home owners, they had not been asked what would happen if their homes were destroyed or damaged in transit and there had been no enquiry as to their availability of funds to deal with the same. Furthermore, Ms Rollings had said that the Respondent was better placed to make decisions on fire safety than the fire brigade or fire safety expert that carried out assessments. The Respondent had furnished no evidence whatsoever as to how the decision to issue the notice was made.

148. Mr Leb stated that there had been no consideration of the Mobile Homes Act 2013: A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime ("the Guidance"), quoting sections 3.1-3.3 (as above). There had been no staged approach to enforcement of section 5 and the broader enforcement policy was ignored.

149. The Tribunal should keep in mind that deviation of the required spacing distance is de minimis, there is no evidence of any tangible fire safety benefit as opposed to the current alleged state of affairs, there has been no consideration of welfare or financial means of licensees, no consideration of potential damage or destruction in moving homes and no consideration of any other appropriate remedy.

150. It is said that the time for compliance with the notice is wholly unreasonable. The Applicant would need to arrange relocation of elderly residents who may have limited financial means. The Applicant relies upon Ms. Peachey's unchallenged evidence as to the relocation cost of £22,350 for 1 unit which would be borne by the affected home owner. If the Respondent suggests that the Applicant should meet that cost, it outweighs the allegedly increased risk of fire stemming from 5cm deviation.

151. The Applicant is unable to move units without permission of owners which significantly impacts A's ability to comply with the notice. These issues have not been considered by the Respondent. As such, the Notice was inappropriately issued likened to a sledgehammer to crack a nut.

152. The Applicant further relies on other matters set out by Ms Peachey in support of the appeal.

153. In conclusion, Mr Leb submits that the Respondent's decision making was flawed, the Respondent did not provide particulars of the measurement between the two units, the notice was inappropriately served and even if had been properly served and does not fall to be quashed, it should be quashed because it was unnecessary due to the breach being de minimis. Ms Peachey's evidence was largely unchallenged.

154. There has been no breach of licence. Even if there has been a breach it is de minimis and if not de minimis the notice was inappropriately served.

Consideration & Decision

155. The Tribunal held a reconvene for its deliberations on 26 August 2025 following consideration of the parties' written closing statements. This regrettably, although inevitably has delayed the issue of this decision.

156. The Tribunal has applied Judge Bridge's guidance from the Shelfside decision in consideration of both appeals.

157. Prior to its consideration, the Tribunal wishes to comment upon the evidence before it. A witness statement and oral statement was provided by Ms Rollings on behalf of the Respondent. Whilst the Tribunal was grateful to Ms Rollings for her time and assistance to the Tribunal, Ms Rollings had no direct involvement in the action taken by the Respondent and relied upon the information contained within the Respondent's database. Whilst Ms Rollings herself was clearly knowledgeable within her field, her evidence regarding the site, the

alleged breaches and services of the compliance notices themselves was not reliable in consideration of the same.

158. The Tribunal also notes that evidence was given that before serving a notice the local authority's officers discuss the case with managers and notices must be duly "signed off" by a suitably authorised officer. Mr Williams, a manager of the Respondent, attended the site inspection but did not attend the hearing and did not provide a witness statement. The Tribunal therefore was not assisted any further with regard to the decision making process, and does not make any further finding beyond the evidence provided by Ms Rollings.

159. Ms Rollings's evidence and Ms Lanlehin's closing statement both made very brief reference to the 'Model Standards'. The Tribunal notes that the same were not included within the hearing bundle. For the avoidance of doubt, The Tribunal has therefore given no consideration to the same.

160. Mr Leb asserted that the Respondent had sought to prosecute the Applicant at Crawley Magistrates Court but the case had been dismissed on 20 March 2025. Whilst Ms Lanlehin had also referenced the history within the course of the hearing, the Tribunal has not considered the matter further as neither party included any details within their evidence. The Tribunal was not privy to the judgment. It is therefore not appropriate for the Tribunal to make any findings in relation to this event and it declines to do so.

161. The Applicant had also made assertions regarding the Applicant's motivation for issuing multiple compliance notices, suggesting financial gain or otherwise. Ms Rollings vehemently denied the preposition when put to her by Mr Leb, stating that the same would unethical and likely illegal. Ms Rollings further explained that there was a benefit to separating different breaches on separate Compliance Notices. The Tribunal has no evidence before it of any financial motivation to the enforcement and declines to make any finding of the same, accepting Ms Rollings's evidence.

Has there been a breach of the licence conditions?

<u>The first Compliance Notice – Hedges and Fences</u>

162. The Applicant's case was that there was no breach as the wording of condition 4(i)(e) used the word 'should' rather than 'must'. As such, the condition of the fences and hedges at each park home boundary was a recommendation rather than a mandatory requirement.

163. The Respondent's position was that within this context the word 'should' was mandatory.

164. The Tribunal was not convinced by the Applicant' s argument with regards to the meaning of the word 'should'. In the context of site licence

conditions, the Tribunal finds that by the very nature of the licence being conditional to compliance with the conditions, the language utilized would be mandatory.

165. Further, Ms Rollings was asked by Mr Leb to justify the requirement for a maximum height of the hedges and fences. Ms Rollings cited the Model Standards although the Tribunal notes the same were not included within the Respondent's bundle. The Tribunal does not however consider that the Respondent needed to justify the requirement. This was not an appeal against the site licence conditions but an appeal against the issue of a compliance notice. The Applicant had accepted the site licence conditions.

166. It was said within the Applicant's case that trellis was not considered to fall within the definition of a fence or a hedge. The Tribunal were not compelled by this argument and found trellis panels attached to or used instead of fence panels to fall within the definition of a fence.

167. With regards to evidence of the hedge and fence heights, the Respondent did not provide measurements of each hedge/fence said to have been in exceedance of one metre. As such, the Tribunal considered the relevant evidence before it which principally concerned the cover letter dated 5th March 2025 which accompanied the Compliance Notice [p.50/01], the Compliance Notice itself [p.25-27/01] and the 'report from surveyor' log which included comments at the time of inspection on 16th December 2024 [p.47-49/01].

168. With respect to the Respondent's cover letter accompanying the Compliance Notice, a list of locations was provided whereby hedges/fences were said to be in 'exceedance of one metre' rather than individual measurements stipulated. The Compliance Notice itself however, was silent as to the locations of those boundaries said to have been in breach.

169. The Surveyor's report provides details of a conversation with Ms Wheat which included her identifying of a number of boundaries which appeared to be in exceedance of a metre high in addition to discussing the difficulties in ensuring compliance. Furthermore, there was reference to measurements being taken during the course of the inspection. Specific reference was made to the areas of Kingsmead and Walters Green.

170. The Tribunal noted throughout the course of the inspection several boundary fences and / or hedges which appeared to be of a height in excess of one metre, in particular within Kingsmead.

171. The Tribunal reminds itself of the standard of proof required – the civil standard. Whilst the Respondent did not supply individual measurements to the Tribunal, the inclusion of the surveyor's report is sufficient on the balance of probabilities for the Tribunal to find that the Applicant is in breach of Condition 4(i)(e).

The Second Compliance Notice – Spacing

172. Whilst Mr Leb's closing statement puts the Respondent to proof that a breach has occurred, noting a lack of particulars as to how the measurement was derived at, Ms Peachey accepted throughout the course of her written and oral evidence that the deficit was 5cm [para 26 P.39/02] based on a separation distance between units 22 and 24 of 5.20m. This was on the basis of at least one home having fire-rated cladding in place and thereby falling under the exemption of condition 4(i)(f) for the requirement of a six-metre separation gap. The requirement was therefore of a separation distance of 5.25cm.

173. Ms Rollings also accepted that the separation distance was 5.20m. She had clarified to the Tribunal that an earlier measurement was taken of 5.225m but a second measurement was taken of 5.20m. The Surveyor's Report of the inspection of 16th December 2024 records both measurements.

174. Ms Rollings also accepted, following a question from the Chair, that the Respondent had now accepted that unit 22 was fire-rated based on the evidence provided by the Applicant as to the sealant used in the application of the cladding and Ms Rollings' research on the product. It was said that Unit 24 was not clad.

175. There was therefore no dispute as to these facts between the two witnesses. Notwithstanding, Ms Lanlehin's written closing statement referred to a lack of evidence supplied by the Applicant as to the properties of the cladding and a deficit of 78cm. This is presumably based on the Respondent's first measurement and the requirement for a 6m separation gap without the fire-rated cladding exemption.

176. Despite the Tribunal's earlier comments regarding the reliability of Ms.Rollings's evidence with regards to the decision making process and eventual service of both compliance notices, she had soon after taken on Ms. Giddings's caseload from April. The Tribunal therefore accepted her evidence that the Respondent had since accepted that unit 22 was clad in a fire-rated material and on the basis of such, find that the required separation distance is 5.25m and not 6m.

177. On the basis of these accepted facts between the parties, and the Surveyor's Report log as at the date of the Respondent's inspection, the Tribunal finds that the Applicant has breached condition 4 of the licence condition.

Is the compliance notice valid?

Hedge/Fences

178. The Applicant submits that the notice dated 5th March 2025 fails to provide particulars of the purported breaches or how to remedy them.

179. Whilst the cover letter did provide for a list, it was said that the Applicant was not sufficiently clear as to which hedges and fences were being referred to in all cases. Examples were provided whereby out of date numbering was used or reference to site boundaries rather than boundaries between homes.

180. The Tribunal noted during the course of its inspection that a variety of boundary treatments were in place at some boundaries. It was therefore difficult to ascertain locations of where remediation was required.

181. In consideration of S.9A(2)(a) of the Act, there is a requirement for an Authority to provide detail as to the failure of compliance, the Tribunal finds the Notice fails to meet this requirement. Whilst there may be occasions whereby detail provided in a cover letter served alongside a notice may be sufficient to a reasonable person to be sufficiently clear on the alleged breach, in this instance the quantum of hedges/fences and lack of clarity as to the locations was not sufficiently clear. The Tribunal considered this particularly so in consideration of potential prosecution whereby it would be unjust to prosecute on the basis of such ambiguity. The notice should be sufficiently clear for a site owner to identify the alleged breaches without the need for further enquiry. The Tribunal finds therefore finds that the notice is invalid on this basis.

Separation Distance

182. With regards to the second notice, the Applicant did not make any submissions with regards to its validity. The Tribunal therefore makes no finding in respect of the same.

Was the service of the compliance notice justified

Hedge/Fences

183. Owing to the earlier finding relating to validity on the notice, the Tribunal need not make any findings as to whether the service of the compliance notice was justifiable, but for completeness makes the following observation. The Tribunal considered that it would be unrealistic to expect all hedgerows to be under 1 metre all year round, particularly with regards to the restriction throughout nesting season and the extent of the site/number of boundaries in existence. The Tribunal considered that there would therefore need to be a greater degree of flexibility in the interpretation of the requirement leading to a prolonged period of informal enforcement action in such circumstances.

Spacing

184. It is said by the Applicant that the breach is de minimis. The Tribunal does not accept the breach is de-minimis in the legal sense. The site licence condition states that the requirement for 5.25m spacing exemption to the 6m rule is a minimum. Therefore, anything below that threshold must be a breach, even if marginal as in this case.

185. It was also said that the Respondent failed to show that 5cm additional spacing would provide any additional fire safety benefit. The Tribunal considers that whilst the Respondent need not have done so to establish a breach, in the sense that the Applicant had agreed to the site licence condition, the matter was pertinent with regards to whether the service of the Compliance Notice was justifiable. It is a relevant consideration for the Respondent with regards to determining the seriousness of the breach, the extent of the risk, the period of time to be afforded to informal action and the nature of appropriate remediation or mitigation. An assessment of the same is entirely relevant to the matter of whether the remedial works were reasonable and proportionate to the nature of the breach.

186. Ms Rollings quoted the Mobile Homes Act 2013: A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime which states that the authority should consider the health and safety of an occupier. Whilst opportunity should be afforded to the site licence holder to comply, the authority may be open to criticism of being slow to respond. The legislation allows authorities to carry out their licensing and enforcement functions and as such they are expected to use these powers when appropriate.

187. Ms Rollings further provided an extract from the Respondent's enforcement policy:

> *We will serve Statutory Notices where, in line with the "Principles of Enforcement" in Section 2.0 above, we believe there is sufficient evidence to justify their use and where one or more of the following criteria apply:*
> *• Where we are obliged to by law or required to by Council policy;*
> *• Standards are generally poor with little individual or management awareness of legal duties and responsibilities;*
> *• We have little confidence that the individual concerned or the representative of the business/enterprise will respond to an informal approach;*
> *• There is a history of non-compliance or reluctance to comply with timescales suggested in the past;*
> *• The consequences of non-compliance might potentially put the health of an individual at risk or threaten the environment;*

> • *We intend to prosecute to secure compliance but immediate action is required to remedy conditions which are serious or deteriorating. 30.*

188. Ms Rollings confirmed that in this case the Respondent believes that it is appropriate to use these powers because of the ongoing risks of fire spread and a previous history of non-compliance. The latter was in relation to the third compliance notice (issued prior to the subject two notices) to which the parties agreed that prosecution action was dismissed by the Magistrates Court.

189. It was said of the Respondent that the Applicant had not shown any indication that they would comply with the condition. The Tribunal finds that the Applicant had shown a willingness to engage and find alternative strategies to comply and/or minimise any risk. Ms Peachey's email dated 8th November 2024 had requested a meeting to discuss further, it was said that she could not find a solution at that stage. Her view was that she could not gain additional land where there was none was not considered by the Tribunal to be in resistance with compliance but demonstrated the practical difficulties in compliance. Ms Peachey's oral evidence referenced attempts to contact the Respondent to negotiate further but was informed that 'it had gone too far and was with the legal team'. She had said that any suggestions for mitigation such as alarms or purchase of the mobile homes had been rejected by the Respondent. This evidence was unchallenged by the Respondent and accepted by the Tribunal.

190. The Tribunal gives close consideration the Mobile Homes Act 2013: A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime (the Guidance), as quoted by both parties.

191. Ms Rollings stated that informal correspondence with the Applicant [p.45/02] had occurred since the initial complaint was made. However, specific instances of the same were limited to the initial notification of a complaint to the Applicant by way of a letter dated 6th November 2024, Ms. Peachey's response by email on 8th November 2024 for further information and request for a meeting, along with Ms Giddings reply dated 18 November 2025. The latter recited the requirement for the Applicant to respond to the letter dated 6th November 2025 by 4th December 2024 to evidence compliance. If a breach was found, a Compliance Notice would be served. Ms Giddings further informed Ms Peachey that Regulatory Reform (Fire Safety) Order 2005 did not apply to private pitches.

192. The parties agreed that a site visit had taken place on the 16th December 2024. There was a dispute with regards to the notice provided to the Applicant with the notification letter having been issued on 12th December 2024. Whilst an inspection had already been arranged in respect of the hedge and fence issue for the same day, the Tribunal finds that insufficient notice was given on the basis that the letter was dated 12th December 2025 was a Thursday and the 16th December 2024 was a

Monday. Specific notice in relation to the spacing issue at 22 and 24 Arundel Drive was required both for the site owner to be present for measurements in addition for notice for the occupiers.

193. There was no further evidence adduced by the Respondent of any informal correspondence. The Tribunal considers informal action, as provided for within the Guidance to mean communication and negotiation.

194. The Respondent did not provide any evidence between the date of inspection and the issue of the Compliance Notice of any informal action. On the evidence provided, the very brief email exchange of one email each between Ms. Peachey and Ms. Giddings was insufficient evidence as meaningful informal action.

195. Furthermore, Ms Giddings' email dated 18 November 2025 indicated that she was pre-determined to issue a Compliance Notice if a breach was found to be in existence.

196. The Tribunal well understands however that the issue of fire safety is of grave importance. The matter should not be trivialised and in accordance with the references made to the Guidance, the Tribunal notes that a local authority may indeed exercise enforcement powers with little or no informal action where 'there is a significant risk to health or damage to property or where there may be evidence of previous non-compliance' [5.11 p.91/02].

197. The Tribunal considers that ought to be a sliding scale in the assessment of significant risk. The greater the risk, the less informal action would be required. In such case it may be appropriate for an authority to commence enforcement sooner. Where the breach poses a lower degree of risk, it seems logical to allow for a greater degree of informal action where appropriate.

198. In consideration of section 3.11 of the Guidance, the Tribunal notes that the breach is long standing, at least 13 years since the Applicant became the site licence holder. As such, this should have been considered in relation to the appropriateness and length of informal action, balanced against the level of risk of harm arising from the breach.

199. The Tribunal also gives consideration to section 3.12 which states that in every case, the interests of the home-owner and site owner should be considered.

200. Ms Rollings confirmed that there had been no consultation with the home owners.

201. Ms Rollings did not dispute Ms.Peachey's evidence in relation to the practical difficulties in relocating a park home. Firstly, consent is required either by the home owner or in default the Tribunal. The age was such that the homes may be damaged or destroyed in transit. Not

only would the relocation costs be borne by the home-owner, the home-owner could face further costs relating to repair or replacement of the home. The Tribunal accepts Ms Peachey's evidence in this respect.

202. The Tribunal finds that the Respondent has well-considered the health and safety of the two home-owners concerned but has not given any consideration to any of their other interests such as their age, vulnerability or financial means. The Tribunal considers that this too ought to have been balanced in terms of any increased risk of a shortfall in distance of 5cm.

203. Ms Rollings did not provide any compelling evidence to the Tribunal that a shortfall of 5cm spacing distance would cause a significant risk of harm as referred to in the Guidance, nor would there be a benefit to the relocation proportionate to the remedy. That is not to say that there would not be a significant risk or benefit to relocation but the Tribunal considers this ought to have been at the forefront of the Respondent's decision making process in justifying the service of the notice. Rather, the Respondent has not adduced any first-hand evidence of the decision-making process and the factors considered, nor has there been any evidence of an informal approach beyond the date of the inspection. On that basis, the tribunal finds that the service of the Compliance Notice was not justified.

204. The Tribunal wishes to make clear that this finding relates to a lack of evidence of informal action or assessment of the risk and benefits proportionate to the required remediation. The Tribunal is not satisfied that *the process* undertaken was sufficient to justify the service of the notice.

Whether the remedial works required were reasonable and proportionate to the nature of the breach?

Hedges and Fences

205. As the Tribunal has found the Notice was not valid, the Tribunal need not make any findings in relation to whether the works required were reasonable and proportionate to the nature of the breach.

206. Notwithstanding this, the Tribunal wishes to address the dispute as to the timeframe provided for the remedial works. Ms Rollings' evidence was such that whilst she accepted it may be inappropriate to undertake hedge cutting in nesting season, there had been four months between the Respondent's site visit and the service of the notice whereby the Applicant could have undertaken remedial works. The Tribunal would have found that the required timeframe begins as at the date stipulated within the notice and any time beforehand is not applicable. The Tribunal would have found further, given Ms Rollings acceptance that the given timeframe fell over nesting season, that the timeframe provided was not reasonable for the applicant to comply with the notice.

Spacing

207. In respect of the Tribunal's finding that the service of the Compliance Notice was not justified, it follows that the remedial works required were not reasonable or proportionate to the breach.

208. The Tribunal would comment however, that had it found that the service of the notice was justifiable, considering the practical difficulties of relocating one or both units, the timeframe given for compliance, some five months, would have been inadequate.

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 to the First-tier Tribunal at the Regional office which has been dealing with the case by email at 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.

4. 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.