FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/00HE/LBC/2026/0003
Property	**:**	26 Porthmellon Gardens, Callington, PL17 7QL
Applicant	**:**	Lamorna Park Management (No. 1) Limited
Representative	**:**	Liskeard Property Management Limited Robert Kernaghan (director)
Respondent	**:**	James Weddell
Representative	**:**	In person
Type of Application	**:**	Application for an order that a breach of a lease has occurred – Section 168(4) of the Commonhold and Leasehold Reform Act 2002
Tribunal Members	**:**	Tribunal Judge P Pattni-Evans Mr J Reichel BSc MRICS
Date of Hearing	**:**	8 October 2026, Havant Justice Centre, by CVP
Date of Decision	**:**	19 October 2026

DECISION

© Crown Copyright 2026

Introduction

1. This is an application by Liskeard Property Management ("the Applicant") made under section 168(4) of the Commonhold and Leasehold Reform Act 2002 (the '2002 Act') for a determination that the Respondent, Mr James Weddell breached the terms of his lease for 26 Porthmellon Gardens, Callington, PL17 7QL ('the Flat').

2. The Flat is a ground floor flat in a block of 4; it has windows to the front and back of the flat and an entrance door off the communal areas. The property was purpose-built in the late 1980s. The lease was granted on 14 April 1992 between Downderry Construction Company Ltd as landlord and Kathryn Helen Rose as tenant ('the Lease'). The Applicant, Lamorna Park Management No. 1 Limited, is the current freehold owner and was represented in these proceedings by Liskeard Property Management Limited. The Respondent, Mr Weddell, acquired the leasehold interest in the property on 28 September 2021.

The Allegations

3. The application focused on two allegations. First, that the Respondent altered the external appearance of the property by replacing the original, brown-framed windows, which are consistent with the appearance of the estate, with white uPVC windows without first obtaining the necessary consent from the management company. Secondly, that the Respondent kept at least four dogs at the property without seeking or obtaining such permission. The Applicant also raised allegations that the Respondent was breeding dogs from the property and had engaged in anti-social behaviour. On that basis, the Applicant sought a determination that the Respondent had breached the terms of the lease.

© Crown Copyright 2026

The Hearing

4. The Respondent had not complied with the Tribunal directions to submit evidence in advance of the hearing, case management directions dated 24 July 2026, required the parties to prepare for the final hearing in the usual manner with sequential service of statements. The Tribunal received only one email from the Respondent in August 2026 to request a copy of the bundle. Notably, he also stated that he was dyslexic and probably suffered from ADHD and that he found large amounts of information difficult to work through. Nothing further was received from him.

5. In the event, the Respondent attended the hearing and acknowledged his non-compliance. He accepted, to a significant extent, the matters being raised by the Applicant. The Respondent explained that he was dyslexic and believed himself to be autistic, although he had not received a formal diagnosis. He apologised for his failure to engage with the proceedings and stated: "I am a terrible procrastinator. I am autistic to some form. I find reading problematic. I did not get far enough and did not get through all of it. I did not realise that I was supposed to register my dogs, and I am sorry for that."

6. Given that the matter had been listed for a final hearing, the Tribunal considered it expedient to proceed, no disadvantage was caused to the Applicant given the admissions made by the Respondent. In light of the Respondent's stated conditions and difficulties, which the Tribunal accepted, the Tribunal made reasonable adjustments to facilitate his effective participation.

7. The Tribunal adopted a degree of informality in the presentation of evidence, dispensing with the need for formal cross-examination, and allowed additional time for the Respondent to read and consider documents. These adjustments were made in accordance with the principles set out in Rule 3 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and the Equal Treatment Bench Book (Feb 26 update). Neither party objected to this approach.

© Crown Copyright 2026

Lease

8. The relevant terms of the Lease are found in the Second Schedule, Part II 'Restrictions imposed on the Lessee as to the Flat':

> *Clause 6: not to alter the external appearance of the Flat or alter the colour of the external paintwork or to put up any new building or erection or to make any structural addition or structural alteration without the previous written consent of the Lessor.*
>
> *Clause 7 not to keep any dog or other animal or creature in the Flat without the lessons prior consent in writing and such consent whether given or waived may be withdrawn at any time.*

Law

9. An application under section 168(4) of the 2002 Act is concerned only with whether a breach has occurred, and provides as follows:

(1) A landlord under a long lease of a dwelling may not serve a notice under section 146(1) of the Law of Property Act 1925 (c. 20) (restriction on forfeiture) in respect of a breach by a tenant of a covenant or condition in the lease unless subsection (2) is satisfied.

(2) This subsection is satisfied if— _

(a) it has been finally determined on an application under subsection (4) that the breach has occurred,

(b) the tenant has admitted the breach, or

[…]

(4) A landlord under a long lease of a dwelling may make an application to a leasehold valuation tribunal for a determination that a breach of a covenant or condition in the lease has occurred.

© Crown Copyright 2026

The Evidence

The Applicant's Evidence

10. The Tribunal heard oral evidence from Mr Kernaghan and Ms Kernaghan and considered the written witness statement of Ms McIntyre. Mr and Mrs Kernaghan were part of the management company and all three were residents.

11. Mr Kernaghan's evidence was that the Respondent had altered the external appearance of the property by replacing the original windows with white uPVC windows. He first observed and photographed the replacement windows on 4 November 2025 and confirmed that no application for consent had been received from the Respondent. In his view, consent would not have been granted in any event because the replacement windows were not in keeping with the appearance of the building. Whilst the management company had no objection in principle to the use of uPVC windows, it required any replacement windows to maintain the established appearance of the building, including the brown colouring and leaded design of the existing windows.

12. Mr Kernaghan also gave evidence regarding the keeping of dogs at the property. Complaints had been received since 2025 concerning the number of dogs being kept there and their behaviour. Again, the Respondent had not sought the consent required under the Lease for keeping dogs at the property. he said that a mailshot had was sent out when the new managing agents took over, to establish pre-existing pet ownership within the estate. However, it was clear that his concerns were not directed at the mere presence of dogs but at their behaviour, including reports of dogs running loose around the estate, excessive barking, nuisance to residents and contractors, and issues arising from dog waste and associated odours.

13. In support of the application, Mr Kernaghan produced a number of exhibits. These included photographs of the building showing that the surrounding flats retained brown-framed, leaded windows whereas the Respondent's flat

© Crown Copyright 2026

had plain white uPVC windows which were visually distinct from and not in keeping with the remainder of the building. He also produced copies of correspondence sent to the Respondent, including letters dated 10 November 2025 and 11 December 2025 concerning the windows, and a letter dated 23 March 2026 concerning the keeping of dogs at the property. Only the latter referred to the dogs and stated that permission had not been granted for them to be kept at the Flat.

14. During his evidence, Mr Kernaghan accepted that although correspondence had been sent to the Respondent, neither he nor any representative of the management company had attended the Flat to discuss the issues with him in person nor explain the contents of the letters. He accepted that the Applicant's concern was not with dogs per se, but with the number of dogs being kept and the nuisance allegedly arising from their behaviour, had the dogs not been causing difficulties for residents and contractors, the management company would have had no objection in principle to pets being kept at the Flat. The Applicant's position was that the behaviour of the dogs and their impact upon the estate gave rise to the concerns which underpinned the application.

15. Ms Kernaghan attended the estate regularly, including for monthly fire alarm inspections. She described an incident in which two of the Respondent's dogs ran towards her and a colleague at speed, causing her concern as to whether the dogs were under effective control. She considered that the Respondent did not have adequate recall of the dogs.

16. The Tribunal also considered the written statement of Ms McIntyre. Her evidence focused on the dogs kept at the property. She described a number of occasions on which she had observed two or three dogs at the flat and complained of barking and other nuisance behaviour. Her principal concern related to the conduct and control of the dogs, including occasions when a larger Alsatian-type dog was present at the property.

© Crown Copyright 2026

The Respondent's evidence

17. The Respondent accepted that he had changed the windows, he considered the replacement ones to be more environmentally sound. He explained that there are 601 windows on the estate, comprising 321 plain brown windows, 211 white uPVC replacement windows, and 69 original brown leaded windows. Having personally counted them, he believed the estate had been moving increasingly towards white, non-leaded windows. He disliked the appearance of leaded windows and said his own windows were replaced around September 2025. He noted that only one white window on the estate contained any form of leading, comprising of a plastic cross design.

18. In relation to the dogs, he explained that he had his own dog for the best part of three years. He did not realise that he was required to register his dogs [with the Applicant]. At the end of last year, a homeless friend stayed with them and brought three dogs. One of those dogs impregnated his dog, resulting in a litter of nine puppies. During that period, windows were often left open for ventilation, which may have contributed to barking as the dogs reacted to people passing by. He now keeps only two dogs at the property, named Link and Zoro, the latter having been born on 4 January 2026 as part of the litter.

19. He said both dogs are being trained, have good recall, are not allowed to roam freely, and have never bitten anyone or behaved aggressively. An additional female dog was present temporarily in recent weeks because she was in season, but the Respondent said no other dogs are kept at the property. He expressed remorse and that he will change his habits around cleanliness of the dogs.

20. The Respondent stated that, aside from receiving letters, no one has spoken to them directly about concerns regarding the dogs. He acknowledged that they had not fully read the correspondence received.

© Crown Copyright 2026

Applicant's Reply

21. Given the way the evidence had unfolded, the Tribunal permitted the Applicant's a right of reply. They explained that the Respondent was mistaken regarding the uPVC windows and that the windows on other parts of the estate had changed – to which this Lease did not apply. The Applicant clarified that the estate referred to in the lease consisted of four buildings totalling 20 flats. Two blocks of four flats and two blocks of six flats. The 601 windows referred to by the Respondent is taken from a much wider 'estate' including other blocks.

Decision

22. The Tribunal has carefully considered the evidence and submissions of both parties. The relevant Lease provisions, set out at paragraph 8 above, are clear and unambiguous. The Tribunal reminds itself that its role is limited to determining whether the matters complained of constitute breaches of the Lease, which must be shown by the Applicant on the evidence, if not admitted by the Respondent. It is not for the Tribunal to determine what, if any, further action may follow from those findings.

23. The Respondent accepts that he did not obtain the Applicant's consent before replacing the windows. The photograph provided by the Applicant clearly shows the replacement white window and allows comparison with the remaining brown, leaded windows. The replacement of the original brown-framed, leaded windows with white uPVC windows altered both the colour and appearance of the front elevation of the Flat.

24. The Tribunal is therefore satisfied that the Respondent altered the external appearance of the property by replacing the original, brown-framed windows, which were consistent with the appearance of the estate, with white uPVC windows without first obtaining the necessary consent from the management company. This constitutes an admitted breach of Clause 6 of the Lease.

© Crown Copyright 2026

25. The position in relation to the dogs is less straightforward and the Tribunal considers that there is a distinction to be drawn between the facts relating to both dogs. The Respondent accepts that he did not obtain the Applicant's prior consent to keep Link. However, Link had been living at the Flat for a number of years and the Applicant's evidence is that it did not object to the dog's presence – the issue was the generalised misbehaviour of unspecified dogs that were thought to belong to the Respondent. Whilst there is no evidence that express consent was granted and indeed that part is admitted by the Respondent, the Tribunal considers that Applicant's prolonged acquiescence to Link being kept at the Flat amounted to a waiver of its right to rely upon the requirement for prior consent. In so far as the 'waiver' element is concerned, the Tribunal notes that this does not have to be in writing. The Tribunal is therefore satisfied that, in relation to Link, there has been no breach of Clause 7.

26. The position is different in relation to the second dog, Zoro. The Respondent again admitted to not having written consent and the Applicant made clear its objection in the letter dated 3 March 2026 to Zoro being kept at the Flat. Even though the dogs are not named in the letter, it is clear that the recent addition of the second dog is when the problems started to arise. In those circumstances, compliance with the requirement for prior consent cannot be said to have been waived. The Applicant's position was clearly communicated and, unlike the situation with Link, there was no prolonged acquiescence from which a waiver could be inferred.

27. Accordingly, the Tribunal is satisfied that the keeping of Zoro at the Flat without the Applicant's prior consent constitutes a breach of Clause 7 of the Lease.

Appeals

© Crown Copyright 2026

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 .

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, 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 p roceed.

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.

© Crown Copyright 2026