



**First-tier Tribunal
Property Chamber
(Residential Property)**

Case Reference : **CAM/00KB/2014/PHN/0001**

Park Home address : **38 Rose Crescent, Pavenham Park,
Bedford MK43 7PL**

Applicant : **Heather Jeffs**
Representative : **Councillor Stephen Moon**

Respondent : **Tingdene Parks Limited**
Representative : **Mr Keith Ryan, Solicitor**

Date of Application : **5th September 2014**

Type of application : **to determine whether proposed new
site rules should be approved
(The Mobile Homes (Site Rules)
(England) Regulations 2014) (“the
regulations”)**

Tribunal : **Judge JR Morris
Mr S Moll MRICS
Mr D Reeve MVO MBE**

**Date and venue for
Hearing** : **17th November 2014 at
Woodland Manor Hotel, Green Lane
Clapham Bedford MK41 6EP**

Date of Order : **19th December 2014**

CONSENT ORDER

Crown Copyright ©

Consent Order

It is Agreed between the Parties that:

1. The proposed rule 2 (c) shall be amended to read as follows:

The Occupier shall be responsible for the trimming and maintenance of any boundary hedge and fence of the park which forms a boundary of the pitch, but for the avoidance of doubt the company shall be responsible for maintaining the mature trees on the Park including:

- (i) *all those which stand on the site boundary, including those within a boundary hedgeline; and*
and
- (ii) *including those which stand entirely within the homeowners pitch provided it is a tree for which the Company has previously accepted responsibility notwithstanding that the tree is entirely within a homeowners pitch.*

In each case the Company will maintain the trees to the extent that the trees do not pose a risk to residents. Such maintenance shall be undertaken annually by a suitably qualified tree surgeon.

The Company undertakes to carry out work to the site boundary hedges by the end of March 2015 by returning them to the state to which they shall be kept by an Occupier

2. The proposed rule 5 (b) shall be amended to read as follows

No person shall be permanently resident on the Park who is under the age of 45 (forty five years) but nothing in this rule shall prevent:

- (i) *a disabled resident from receiving live in care from a carer who is under that age or who has dependant children under that age; or*
- (ii) *a disabled member of the Occupier's family who receives care from the Occupier residing with the Occupier; or*
- (iii) *a current occupier being able to gift to a person who may permanently reside on the Park under that age and/or whose household may include persons under that age, but on any subsequent gift or sale all persons permitted residing in the Home will be subject to the age restriction. This sub-rule is subject to the provision of the Mobile Homes Act 1983 (as amended)*
- (iv) *the Occupier having a family member under that age reside at home subject to any provisions in the Occupier's Occupation Agreement limiting the total number of persons entitled to reside at the Home*

Reasons

Introduction

1. This Consent Order is made following an application with regard to the proposed making of some new Park Home site rules by the Respondent.
2. 'Site rules' are defined in section 2C of the **Mobile Homes Act 1983** as being "rules which relate to the management and conduct of" a park home site. The Respondent is using a process introduced as part of a new approach to the administration of park home sites in the **Mobile Homes Act 2013** ("the 2013 Act"). The regulations were made pursuant to section 9 of that Statute and came into force on the 4th February 2014.
3. The new scheme provides that site rules made by a site owner before 26th May 2013, i.e. 2 months after Royal Assent for the 2013 Act, shall cease to have effect after 4th February 2015 unless site rules have been introduced by the procedure laid down in the regulations.
4. Regulation 4 says that:-
"(2) A site rule must be necessary—
(a) To ensure that acceptable standards are maintained on the site, which will be of general benefit to the occupiers; or
(b) To promote and maintain community cohesion on the site
5. The Tribunal was provided with copies of:
 - the Applicant's Written Statement of Agreement,
 - the Site Licence granted on 27th March 1989 and revised on 8th October 2004
 - the site rules dated January 1976, July 1998 and the proposed rules for 2014.

New Site Rules Procedure

6. The site owner must prepare the proposed site rules. A Proposal Notice must then be served on every occupier and any qualifying residents' association setting out certain prescribed information in a form set out in Schedule 1 to the regulations.
7. Once the consultation process has finished, the site owner must then send a Consultation Response Document to the same people. This explains that the Respondent has taken views into account and has modified the original proposals. It adds that if the recipient wants to appeal that decision, such appeal should be within 21 days and also notice must be given to the site owner 'of an appeal' within 21 days. The 'final' version of the proposed site rules is annexed.

8. This Tribunal is given the jurisdiction to hear these appeals and the regulations say that it can confirm, quash or modify the site owner's decision or substitute its own decision for that of the site owner.
9. The regulations say "*where a consultee makes an appeal under this regulation, the consultee must notify the owner of the appeal in writing (and provide the owner with a copy of the application) within the 21 day period referred to in Paragraph (1) above*". The words in brackets will no longer be a requirement as from 19th December 2014.
10. In this case, it is not disputed that the consultation was carried out correctly.

Grounds of Appeal Against New Site Rules

11. Possible grounds of appeal are set out in regulation 10 and, in so far as they are relevant, they provide that grounds for an appeal are:-

- (c) *the owner's decision was unreasonable having regard, in particular to---*
 - (i) *the proposal or the representations received in response to the consultation;*
 - (ii) *the size, layout, character, services or amenities of the site; or*
 - (iii) *the terms of any planning permission or conditions of the site licence*

12. In this case, initially the Applicant objected to the following rules:

Rule 2 (b) - *Gardens must be of an ornamental nature only, trees are to be a maximum of eave height and must be kept neat and tidy. Vegetable gardens are NOT permitted.*

Rule 2 (c) - *The Occupier shall be responsible for the trimming and maintenance of any boundary hedge and fence of the park which form a boundary of the pitch.*

Rule 3 - *Everyone using the Park is required to comply with regulations of the Site Licence, Water Company and any other statutory authority.*

Rule 5 (b) - *No person shall be permanently resident o the Park who is under the age of 45 (forty five) years.*

Rule 7 (a) - *All vehicles (maximum 2 per home) must be driven carefully on the Park.*

Rule 10 (b) - *Hand held hose pipes are permitted but only for use where a 'gun' attachment is fitted and for a direct water supply and meter.*

Rule 12 (c) – *Residents are responsible for making these rules known to members and guests or visitors to their home and indemnify the Park Owner in respect of all actions by themselves or such persons.*

13. The Applicant only challenged Rules 2 (c) and 5 (b) following the submission of the respective Statements of Case and discussions between the Parties' Representatives prior to the Hearing.

Site Inspection

14. The Tribunal inspected the Park in the presence of Mrs Jeffs, the Applicant, and Councillor Stephen Moon, her Representative, Mr Jeremy Pearson, Operations Director for Tingdene Park Limited, and Mr Keith Ryan, the Respondent's Solicitor. The Tribunal found the Park to be generally well maintained. There is a green area at the entrance to the Park and a road along western boundary travelling the length of the Park off which are avenues, which provide access to the individual pitches. There is a limited amount of car parking, as most pitches appear to have their own hard standing. Along one side of the road there is a hedge, which forms the boundary with neighbouring land. The Respondent maintained this. There is also a hedge along the eastern and northern boundaries, which has trees within it. There are a number of pitches, which back onto these boundaries. The Applicant pointed out that the hedge was very high and the trees in it were mature and of a large size. She said it was the Occupiers of these pitches who it appeared under the proposed rules would be required to maintain the hedges and trees.

The Hearing

15. Those who attending the hearing were Mrs Jeffs, the Applicant, and Councillor Stephen Moon, her Representative, Mr Jeremy Pearson, Operations Director for Tingdene Park Limited, and Mr Keith Ryan, the Respondent's Solicitor. A number of the Park Residents also attended.
16. The Parties' Representatives explained that all the rules except two had now been agreed. Rule 2 (c) and Rule 5 (b) remained in issue for the following reasons:
17. Rule 2 (c) regarding boundary hedge maintenance, as proposed, would be unduly onerous on the Occupiers whose pitches included the eastern boundary hedge because the hedge is now very high and the trees are mature and substantial. To bring the hedge to a maintainable standard would be expensive as the Occupiers would not be physically able to do so themselves. Also the trees in the hedge would require a tree surgeon to lop them.
18. Rule 5 (b) regarding an age limit of 45 years, although popular in principle with Occupiers was nevertheless seen as having its problems

for existing Occupiers as proposed. In particular it would introduce a restriction on their ability to gift and sell to a person under that age when no such restriction had existed prior to the proposed rules. The Respondent itself had identified a problem with the rule as drafted as account would need to be taken of carers, especially if the age of any permanent resident was to be set at over 45.

19. After some discussion with the Tribunal specific issues were identified which were as follows:
20. In respect of Rule 2 (c)
 - The hedges, which formed a boundary of a pitch, would need to be put into such a condition that the Occupiers of those pitches would be able to maintain the hedges themselves.
 - The mature trees, in the Park whether in the hedge, on a pitch or a common area need to be identified and should be maintained by the Park owner up to a standard of safety.
21. In respect of Rule 5 (b)
 - Allowance needs to be made for persons under the age of 45 to care for Occupiers over that age
 - Provision needs to be made in respect of current owners who purchased their home on the Park when there was no age restriction to ensure that the rights to gift and sell their homes to those under 45 are not compromised.
 - Whereas there was general agreement amongst Occupiers in the consultation that there should be an age restriction. to introduce the provision immediately was unfair. The provision would need to preserve the rights of current Occupiers by allowing one transfer to a new Occupier who might be below the age but that they would take possession subject to the new rule and a further transfer would be subject to the age restriction.
22. The Hearing was adjourned for the Parties' representatives to re-draft the rules in order to agree a wording in respect of which the Tribunal could grant a Consent Order. The Parties' Representatives subsequently returned with a full draft.

Consent Order

23. The wording as set out in paragraphs 1 and 2 in the Consent Order at prior to these Reasons was agreed.
24. Although the Tribunal accept the wording is legalistic it is to deal with a particular situation pertaining to the Pavenham Park during a transition period, which is likely to be of some years between the old and new rules. Over time the more legalistic wording will become unnecessary.

Judge J K MORRIS

*Any party to this Decision may appeal against the Decision with the permission of the Tribunal. The provisions relating to appeals are set out in Part 6 of **The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013**. An application for permission to appeal must be delivered to the Tribunal within 28 days after the Tribunal sends the Decision to the person making that application.*