



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

Case Reference	:	CHI/18UL/PHN/2015/0001
Property	:	Oaklands Residential Park Hatherleigh Road Okehampton EX20 1LG
Applicant	:	Oaklands Park Residents Association
Representative	:	Mrs C James with other residents
Respondent	:	Mr A Valler and Oaklands Park Limited
Representative	:	Mr & Mrs A Valler with Lord Marks
Type of Application	:	To determine whether proposed new site rules should be approved The Mobile Homes (Site Rules) (England) Regulations 2014 (the Regulations)
Tribunal Members	:	Judge C A Rai Timothy N Shobrook FRICS Chartered Surveyor and Peter Groves Lay Member
Date and venue of Hearing	:	22 May 2015 Exeter Magistrates Court Heavitree Road Exeter EX1 2LS
Date of Decision	:	23 June 2015

DECISION

1. The Tribunal has set out in its decision which rules are confirmed, which rules are substituted and which rules are quashed, together with its reasons.

Background

2. The Respondent sent a Proposal Notice dated 31 October 2014 to implement 41 park rules. It appears that a copy of the Proposal Notice and draft rules were sent both to the Applicant and separately to each park home owner on the Park under cover of a letter of the same date. It is not disputed that the notice complied with the Regulations.
3. The Proposal Notice was acknowledged by Mr Pavely Secretary of the Applicant on 26 November 2014. He stated that his letter enclosed 17 signed responses to the proposals.
4. The consultation response document, (CRD) was sent by the Respondent to Mr Pavely on the 17 December 2014.
5. The Applicant submitted an application to the Tribunal dated 5 January 2015, (the Application). Judge Tildesley issued Directions dated 9 January 2015 setting out what the parties had to do to enable the determination of the Application and setting out a timescale within which the parties had to supply statements and further information. Following receipt of correspondence by both parties the Tribunal amended the time limits but confirmed the originally proposed hearing date, 22 May 2015.
6. Bundles of correspondence and documents were supplied by the Respondent and received by the Tribunal's office on the 7 April 2015.
7. At approximately 10 o'clock on the 22 May 2015, before the Hearing, the Tribunal Members inspected the Park. In particular they looked at the road within the Park, the occupied and derelict homes, pitches and the access road within the Park.

The Hearing

8. At the beginning of the Hearing, following information disclosed by the Applicant, it became apparent that it had sent further reasons to the Tribunal explaining why it had rejected or accepted the Rules proposed by the Respondent in the CRD. The Applicant's Representative produced a postal receipt to the Tribunal evidencing that a copy of that letter had also been sent to the Respondent. Mrs Valler told the Tribunal that the Respondent had not received it. The letter post dated the date upon which the hearing bundle had been distributed to the Tribunal and the Applicant by the Respondent. Copies of the letter were made by the Tribunal Clerk for the Respondent and the Tribunal to consider at the Hearing.
9. It was agreed by all the parties that to establish which rules could be agreed it would be necessary to separately consider each of the 41 Rules contained in the Proposal Notice and as amended, (if amended), in the CRD.

10. The Tribunal also explained that if the parties could not agree all or any of the rules, the Tribunal would decide upon them in accordance with its jurisdiction under the Regulations and the Mobile Homes Act 1983 (as amended) (the Act).
11. Mrs James and another resident spoke on behalf of the Applicant with assistance from Mr Pavely and other residents in attendance.
12. Mr and Mrs Valler with Lord Marks represented the Respondent.
13. The Tribunal also considered comments made by other residents of the Park present at the hearing. These have only been specifically referred if relevant to its decision but all comments made have been considered by the Tribunal.

14. The Law

Section 2C of The Mobile Homes Act 1983, (the 1983 Act) defines site rules and states that Regulations may provide the procedure for making varying or deleting a site rule. The 2014 Regulations came into force on 4 February 2014.

15. The relevant clauses of the Regulations are set out below.

4 Matters prescribed for the purposes of section 2C(2)(b) of the 1983 Act

- (1) The matters prescribed for the purposes of section 2C(2)(b) are the matters set out in paragraph (2).
- (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 occupiers; or
 - (b) to promote and maintain community cohesion on the site.

5 Matters prescribed for the purposes of section 2C(8) of the 1983 Act

A site rule is of no effect in so far as it makes provision in relation to any of the matters prescribed in Schedule 5 to these Regulations

7 Requirement to consult on a proposal

An owner must, in relation to the protected site concerned, consult--

- (a) every occupier; and
- (b) any qualifying residents' association,

on a proposal in accordance with regulations 8 and 9.

8 Notification of proposal

- (1) The owner must notify each consultee of a proposal, by issuing a proposal notice ("the proposal notice").
- (2) The proposal notice must--
 - (a) clearly set out a proposal;
 - (b) contain a statement of the owner's reasons for making a proposal;
 - (c) contain a statement that the consultation response document will be sent to each consultee;

- (d) contain a list of the matters prescribed by regulations 4 and 5 and a statement confirming that a proposal complies with the requirements of these provisions;
- (e) specify--
 - (i) the date on which the notice shall be deemed served on each consultee, in accordance with regulation 3 ("the first consultation day");
 - (ii) the date by which any representations made in response to the proposal must be received by the owner ("the last consultation day") which must be at least 28 days after the first consultation day;
 - (iii) the name of the owner and address to which any such representation must be sent;
- (f) be signed and dated by the owner; and
- (g) be in the appropriate form set out in Schedule 1 or in a form substantially to the like effect.

- (3) A proposal shall be treated as notified to the consultees on the first consultation day.
- (4) The proposal notice may contain more than one proposal, and in such cases, this regulation and regulations 9 to 17 shall apply in relation to those proposals collectively as if they were a single proposal.

9 Owner's response to the consultation

- (1) Within 21 days of the last consultation day, the owner, having taken into account any representations received from consultees, must--
 - (a) decide whether to implement the proposal (with or without modification) ("the decision"); and
 - (b) send a document, to be known as "the consultation response document", to each consultee, notifying them of that decision.
- (2) The consultation response document must also--
 - (a) give details of the consultation carried out under regulations 7 and 8, including the first consultation day;
 - (b) give details of the representations received, the owner's response to the representations and such modifications as were made to the proposal (if any) as a result of the consultation;
 - (c) contain a copy of any site rules in the form in which the owner proposes to deposit them with the local authority;
 - (d) where relevant, contain an explanation that the owner intends to deposit a deletion notice with the local authority and a list of the site rules to be deleted;
 - (e) contain a statement that any site rules or deletions shall come into force in accordance with regulation 14, provided that a deposit has been made in accordance with regulation 12 and notified in accordance with regulation 13;
 - (f) explain the rights of appeal available to consultees under regulation 10; and
 - (g) be in the form set out in Schedule 2 or in a form substantially to the like effect.
- (3) Where a proposal is modified as a result of the consultation, the reference to "the proposal" in regulation 10 is to be read as a reference to the proposal as modified.

10 Right to appeal to tribunal in relation to the owner's decision

- (1) Within 21 days of receipt of the consultation response document a consultee may appeal to a tribunal on one or more of the grounds specified in paragraph (2).
- (2) The grounds are that--

- (a) a site rule makes provision in relation to any of the prescribed matters set out in Schedule 5;
 - (b) the owner has not complied with a procedural requirement imposed by regulation 7 to 9 of these Regulations;
 - (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.
- (3) Where a consultee makes an appeal under this regulation, the consultee must notify the owner of the appeal in writing . . . within the 21 day period referred to in paragraph (1) above

11 Appeal procedure

On determining an appeal under regulation 10 the tribunal may--

- (a) confirm the owner's decision;
- (b) quash or modify the owner's decision;
- (c) substitute the owner's decision with its own decision; or
- (d) where the owner has failed to comply with the procedure set out in regulations 7 to 9, order the owner to comply with regulations 7 to 9 (as appropriate), within such time as may be specified by the tribunal.

16. The rules referred to in the consultation response document.

Both parties agree that the proposed **Rules 8, 16 and 38 (set out below)** are **agreed**.

Rule 8

For reasons of ventilation and safety you must keep the underneath of your home clear and not use it for storage space.

Rule 16

You must drive all vehicles on the park carefully within 10 mph or less.

Rule 38

Musical instruments record players radios other appliances and vehicles must not be used to cause nuisance to others especially between the hours of 1030 pm and 6 am

The Tribunal **confirms Rules 8 16 and 38**

- 17.** Both parties agreed that the proposed **Rules 1 & 2** be considered together.

Rule 1

No persons under the age of 45 may reside in a Park Home on the Oaklands Residential Park with the exception of the park owner/s and their families management staff or park warden.

Rule 2

No children as residents (with the exception to the park owner/s and their families, management and park warden).

- 17.1. Following receipt of representations from the Residents Association the Respondent proposed implementation of the two rules without modification.

17.2. Applicant's case

The Applicant said that the Park had, in the past, been advertised as low cost affordable housing. Residents with children are currently living on the Park. There must previously have been flexibility with regard to the age of residents. Copies of advertisements were produced. The Site Licence had referred to play areas. In addition the Applicant did not understand why the park owners and their families management staff or the non-existent park warden should be excluded from compliance with the rules.

17.3. Respondent's case

Mrs Valler said that the Respondent had owned the Park for about seven years. Any references suggesting that areas were designated for use as play areas in the old Site Licence would have been standard site conditions and not specific to this Park. She said legislation exempted the park owners and their families and staff from being subject to Park rules.

17.4. Tribunal decision

It explained to both parties that there was no need to exempt those person referred to in the draft Rule 1 because such parties would not generally occupy a mobile home on the Park by virtue of an agreement. If they should be party to a written statement they would be subject to the Park rules. For this reason references to similar exemptions will not be accepted in other proposed rules.

It does not accept that a rule prohibiting children from occupying homes is necessarily novel. The information provided by the Applicant refers to "no children". However it determines that the inclusion of both rules is inappropriate. The Tribunal quashes **Rules 1 & 2** substitutes the following **Rule 1**.

Rule 1

No person under the age of 45 may be party to an agreement to occupy a Park Home on Oaklands Residential Park. No person under the age of 45 shall be permitted to reside on the Park unless he or she is the partner or a child of the family of the party to the occupation agreement.

18. It was agreed that the proposed **Rules 3, 4 & 5** be considered together.

Rule 3

No dogs. No visiting dogs

Rule 4

No Pets except a cat (please see rule 5 with regard to a pet cat). Rules 3, 4 & 5 does not apply to the park owner and their families park warden and management

Rule 5

No more than 1 cat allowed to any park home and you must keep any cat under proper control and not permit it to frighten other users of the park or to despoil the park.

18.1. Applicant's case

Cherry James said that she owned a small dog. She would not be affected by the rule as it will not be retrospective but she would be prevented from replacing the dog. The Applicant does not believe that the rules are necessary, but entirely accept that no animal living on the Park should be a nuisance to anyone else. They would accept restrictions limiting the number of pets but do not think that there is a need to exclude fish and birds unless these are, or become a nuisance.

18.2. Respondent's case

Mrs Valler believes that if current occupiers are permitted to replace dogs it will prevent her from selling new homes.

18.3. Tribunal decision

It quashes **Rules 3, 4 & 5**. It substitutes the new **Rule 3** set out below. It accepts that an absolute ban on dogs is not acceptable. Hearing dogs and other assistance dogs should not be excluded from the Park but the Tribunal accepts that any pet kept by a resident on the Park must not cause or in any way be a nuisance to other occupiers or visitors. It understands the desirability of excluding visiting pets belonging to third parties.

Rule 3

Residents of park homes may keep either one small dog or a cat for as long as such resident animals do not cause any nuisance or annoyance to other residents or third parties on the Park. Residents must take responsibility for ensuring that their dog or cat does not despoil the Park. No other cats, dogs or animals are permitted on the Park. This rule shall not prevent residents from keeping a caged bird or fish within their mobile home.

- 19.** The proposed **Rule 6** is set out below. Whilst there was some agreement between the parties about the principle which it sought to address the Applicant stated that its representations had not been accurately recorded in the CRD. **Both parties agreed** to the Tribunal substituting an amended Rule.

Rule 6

Only mobile homes of proprietary manufacture which conform to the definitions contained in the caravan sites and control of development act 1960 and the caravan sites act 1968 the mobiles homes act 1976 are acceptable.

19.1. Tribunal decision

Rule 6 is **quashed** and the following amended **Rule 6** is **substituted**.

Rule 6

Park Homes must comply with the British Standard current at the time the homes are brought on the Park.

20. The proposed **Rule 7** is set out below

Rule 7

Homeowners must maintain the outside of their park home and pitch in a clean and tidy condition. Where the exterior is repainted or recovered homeowners must use reasonable endeavours not to depart from the original exterior colour-scheme. Wheels must not be removed nor the mobile home re-positioned.

Applicant's case

Whilst not critical of the rule in itself they did not consider it necessary as it was already covered by the implied terms.

20.1. Respondent's case

Mrs Valler is keen to retain a consistent appearance of homes within the Park.

20.2. Tribunal decision

It read Paragraph 21 of Chapter 2 of Part 1 to the schedule of the 1983 Act to the parties reminding them that the occupier's obligations are to keep the mobile home in a sound state of repair and maintain the outside of it. The parties agreed to an amended rule to cover the other restrictions proposed which had prompted the Applicant to propose Rule 7. The Tribunal **quashes** the proposed **Rule 7** and **substitutes** it with **Rule 7** set out below.

Rule 7

The external parts of a park home must only be repainted in a colour as similar as possible to the original colour; wheels must not be removed. Park homes must not be repositioned.

21. The proposed **Rule 9** is set out below.

Rule 9

You must not erect fences or other means of enclosure without our written approval (which will not be unreasonably withheld or delayed). You must position fences and any other means of enclosure so as to comply with the park's site licence conditions and fire safety requirements.

21.1. The Applicant's case

The Applicant considered this rule unnecessary as it was covered by the implied obligations in the 1983 Act. However it will accept it.

21.2. The Respondent's case

Mrs Valler simply referred to compliance with the Site Licence and fire safety requirements.

21.3. Tribunal decision

Paragraph 21 of Part 2 of Schedule 1 to the 1983 Act refers only to an occupiers obligation to maintain the pitch including fences in a clean and tidy condition. It therefore quashes the proposed Rule 9 and substitutes the following **Rule 9**.

Rule 9

New fences or other new means of enclosure of a pitch may only be erected after a pitch occupier has given at least 14 days prior written notice to the Park Owner, which notice should indicate both specification and proposed location. The Park Owner may object to the proposed fence or other means of enclosure if it, or its proposed location, contravenes the conditions of the Site Licence and fire safety requirements. This rule shall not prevent an occupier repairing existing fencing.

22. The proposed Rule 10 is set out below.

Rule 10

You must not have external fires including incinerators with exception to supervised barbecues.

22.1. The Applicant's case

The Applicant wanted to retain flexibility for residents to incinerate their rubbish and do not believe that this is more dangerous than supervised barbecues.

22.2. The Respondent's case

Only barbecues are acceptable. The incineration of rubbish should not be permitted

22.3. The Tribunal decision

Allowing incineration of miscellaneous rubbish on the Park could cause a nuisance to other occupiers and pollute the air if unsuitable items are burnt. Strict additional rules controlling what could be burnt might have to be imposed, which as well as being unwieldy may then become difficult to police effectively. The proposed Rule 10 is quashed and the following amended **Rule 10 substituted**.

Rule 10

External fires including fires within incinerators are not permitted but residents may have supervised barbecues.

23. The proposed **Rule 11 and 12** were considered together

Rule 11

You must not keep flammable substances on the park except in quantities reasonable for domestic use.

Rule 12

You must not keep explosives substances on the Park

23.1. Applicant's case

23.2. When questioned by the Tribunal it became apparent that the Applicant had not really understood the need for such rules having not considered that, for instance, fireworks would fall within the definition of an "explosive substance".

23.3. The Respondent's case

All the Respondent had suggested was that the rule was necessary to maintain standards and promote and maintain community cohesion. Other reasons were not put forward.

23.4. Tribunal decision

Following a reconsideration of what the definition of an explosive substance might include, there was a greater understanding on the part of the Applicant of the need for a rule. The Tribunal considered however, that a single rule would be sufficient. It therefore **quashes** both **Rules 11 & 12** and substitutes them with the **amended Rule 11** set out below.

Rule 11

No explosives may be brought on to or kept on the Park. Flammable substances may only be kept within mobile homes in quantities reasonable for normal domestic use.

24. Following discussion about the proposed **Rule 13** it was agreed that **Rules 13 and 36** be considered together. Both proposed rules are set out below.

Rule 13

You must not have more than one storage shed on the pitch. The shed design standard and size of the shed must be approved by us the park owner in writing (approval will not be withheld or delayed unreasonably). You must position the shed so as to comply with the parks site licence and fires safety requirement, non –combustible material will only be approved, the footprint of the shed shall not exceed 6ft x 4ft.

Rule 36

You must ensure that any shed or other structure erected in the separation space between park homes is of non-combustible construction and positioned so as to comply with the park's site licence conditions and fire safety requirements. The separation space is the space between your park home and any neighbouring home.

24.1. Applicant's case

The Applicant's believe that there is a need and entitlement to a minimum area of storage but accept that if existing wooden sheds are replaced these must be replaced with sheds constructed from non combustible materials. They also expressed concern that the Respondent has not, in the past, responded to applications for consent swiftly or indeed at all. Representations were made by several of those residents, in attendance at the Hearing, regarding a suitable size of sheds which some wanted to be of a sufficient size to house a motor bike or bicycle.

24.2. The Respondent's case

The Respondent wishes to maintain a tidy Park and to ensure that all residents understand and comply with the conditions of the site licence and fire safety conditions, which are of paramount importance.

24.3. Tribunal's decision

It has considered all of the representations and arguments. These do not support the need for a designated minimum storage space regardless of the reasons for this argument put forward by the Applicant. It was apparent at the hearing that the dimensions incorporated in the proposed rules were too small. It considers that if a written application should be made by a resident to the Park Owner and no acknowledgement or response received within a reasonable period, which might be for example, 14 days it would not be unreasonable for the resident to assume that consent should be implied.

Clearly any rule requiring consent to be given and not unreasonably withheld by the Respondent must imply that all applications will be acknowledged and respondent too within a reasonable time. The Tribunal **quashes Rules 13 and 36** and **substitutes Rule 13** set out below.

Rule 13

Occupiers of mobile homes may locate a single storage shed on the pitch in a position which does not contravene the site licence and fire safety conditions.

Prior to the erection of any new shed written consent to the design and standard of the shed must be obtained from the Park owner who must not unreasonably withhold or delay dealing with any application made to it. The footprint of the shed should not exceed 8ft x 10ft and the shed must not exceed a height of 8ft and must be constructed from non-combustible materials.

25. The proposed **Rule 14** is set out below.

Rule 14

You must not have any storage receptacle on the pitch other than the shed mentioned in rule 13 and any receptacle for the storage of domestic waste pending collection by the local authority.

25.1. Applicant's case

The rule is unnecessary.

25.2. Respondent's case

Mrs Valler does not want other storage receptacles within pitches. She accepts the need for residents to keep a dustbin or a variation of a dustbin.

25.3. Tribunal decision

Providing that residents can erect a shed of a sufficient size to enable practical storage it should not be necessary for other storage receptacles to be located within pitches. The proposed **Rule 14 is quashed**. The Tribunal substitutes the following **Rule 14**.

Rule 14

No external storage receptacles may be kept on pitches other than a shed which complies with Rule 13 and a dustbin or similar receptacle for the storage of domestic waste.

26. The proposed **Rule 15** is set out below.

Rule 15

No commercial vehicles, camper vans touring caravans, boats trailers of any sort may be stored or parked on Oaklands Residential Park at any time this excludes deliveries, with exception to the park owner warden and management.

26.1. Applicant's case

There was much general discussion between the parties with contributions made by several residents present at the hearing with regard to the wording of this rule. The Applicant had proposed a weight restriction but there was little agreement save that it was accepted that boats and large vans should not be parked and possibly that camper vans and caravans should be excluded.

26.2. Respondent's case

Available parking is limited within the Park. It would be impractical to allow every resident to park cars and additional vehicles.

26.3. Tribunal decision

The evidence of the Applicant, not rebutted by the Respondent, was that an occupier of one of the Respondent's rental mobile homes, kept a boat trailer on the Park and parked on a verge. That evidence demonstrated the desirability of a rule to limit what vehicles could be brought on the Park. It would benefit all residents. The Tribunal **quashes** the **proposed Rule 15** and substitutes the following **Rule 15**.

Rule 15

Only commercial vehicles making deliveries can temporarily enter the Park and remain on the Park for sufficient time to enable deliveries to be made. No other commercial vehicles, camper vans, touring caravans, boats or trailers shall be brought on the Park or parked anywhere within it.

27. The proposed **Rule 17** is set out below.

Rule 17

No 2nd cars permitted. You must not park more than one car anywhere on Oaklands Residential Park or on any accesses to the park.

27.1. Applicant's case

The Applicant accepts that accesses must not be blocked but does not want a restriction of one car per pitch.

27.2. Respondent's case

The Respondent stated that there is insufficient room for more than one car per pitch if some visitor parking is to be retained

27.3. Tribunal decision

The Tribunal from its own inspection of the Park has seen that limited space is available for parking within the Park. It accepts that the proposed limitation is in the interests of both residents and the Park owner. It **quashes the** proposed **Rule 17** and **substitutes Rule 17** set out below.

Rule 17

Only one car or other permitted motor vehicle per pitch may be regularly parked within the Park. Cars must not be parked where they can, or may, block the access to and from the Park or the access of any resident on the Park to their pitch. In addition visitors to the Park may bring a car on to the Park for the duration of their visit but must observe the Park Rules and park wholly within pitches or on designated visitor spaces.

- 28.** Proposed **Rules 18 and 19** were considered together and regard was also taken of the substituted **Rule 17** referred to in the preceding paragraph.

Rule 18

You must not park on the roads or grass verges.

Rule 19

You must not park anywhere except in the permitted parking spaces or on your driveway.

28.1. The Applicant's case

The Applicant contends that parking on the Park has not hitherto been regimented and cars parked within pitches free up visitor spaces.

28.2. The Respondent's case

It wants to ensure that access roads remain clear and that standards within the Park are maintained.

28.3. Tribunal decision

The two proposed rules can be combined and take account of what is already incorporated in the substituted **Rule 17**. It quashes the proposed **Rules 18 & 19** and substitutes the following **Rule 18**.

Rule 18

Residents must not park or permit others to park cars or any other motor vehicles on any of the roads or grass verges within the Park. Cars or other permitted vehicles may only be parked wholly within pitches or on designated visitor spaces.

- 29.** The proposed **Rule 20** is set out below.

Rule 20

Other than delivering goods and services, you must not park or allow parking of commercial or light goods vehicles of any sort on the park including vehicles intended for domestic use but derived from or adapted from such a commercial vehicle. With the exceptions of commercial vehicles operated by the park owner their families, the park warden and park management.

29.1. The Applicant's case

There was no agreement about this rule. To some extent it repeats elements of Rule 15.

29.2. The Respondent's case

It was not explained what Rule 20 added to Rule 15.

29.3. Tribunal decision

The first element of the proposed rule is already covered in the substituted Rule 15 and need not be repeated. The only additional element is the suggested widening of the definition of commercial vehicle. In the absence of any explanation from the Respondent for the need for this definition the Tribunal determines it unnecessary to include a separate additional rule. Therefore the Tribunal **quashes Rule 20** but does not substitute a different or additional rule.

- 30.** The proposed **Rule 21** is set out below. The Tribunal has considered this Rule with the proposed **Rule 22** also set out.

Rule 21

You must hold a current driving licence and be insured to drive any vehicle on the park. The vehicle you drive must be taxed in accordance with the requirements of law and is in road worthy condition.

Rule 22

Disused or unroadworthy vehicles must not be kept anywhere on the park. We reserve the right to remove any vehicle which is apparently abandoned.

30.1. The Applicant's case

The Applicant has interpreted the proposed rule as being a rule which would require each resident to be insured to drive all vehicles on the Park.

30.2. The Respondent's Case

The only explanation for this rule, offered by the Respondent, was that it wanted to ensure that vehicles brought on the Park were insured and roadworthy.

30.3. Tribunal decision

The Tribunal determines that it is unnecessary for the Respondent to police whether or not residents hold the appropriate driving licence as that is a legal issue. However it is not unreasonable to propose a rule preventing uninsured vehicles being kept on the Park. It **quashes** both **Rules 21 and 22** and substitutes the following **Rule 21**.

Rule 21

Only vehicles which are taxed and insured in accordance with current legislation may be brought on to and kept on the Park. The Park Owner may remove all vehicles which do not comply with this rule.

31. Rule 23

The proposed **Rule 23** is set out below.

Rule 23

You must not carry out the following works or repairs on the park. Major vehicles repairs Involving dismantling of part(s) of the engine. Works which involve the removal of oil or other fuels.

31.1. The Applicant's case

The Applicant felt that it was appropriate to allow some vehicle repairs to be carried out but accepted that oil and fuel should not be discharged within the Park.

31.2. The Respondent's case

Whilst it accepted that a prohibition relating to the discharge of oil and fuel was desirable no amendment was made in the CRD to the wording of the originally proposed rule.

31.3. Tribunal decision

The Tribunal perceived that there was little disagreement between the parties but concluded that the wording of the proposed rule could be clearer. It **quashes** the proposed Rule 21 and **substitutes** the following **Rule 21**.

Rule 21

No major vehicle repairs shall be carried out within the Park. Vehicle engines must not be dismantled in whole or in part; fuel and or oil must not be removed from vehicles.

32. The proposed Rule 24 is set out below

Rule 24

You must not use the park home, the pitch or the park (or any part of the park) for any business purpose, and you must not use the park home or the pitch for the storage of stock plant machinery or equipment used or last used for any business purpose. However you are at liberty to work from home by carrying out any office work or a type which does not create a nuisance to other occupiers and does not involve other staff, other workers, customers or members of the public calling at the park home or the park.

32.1. Applicant's case

It accepts the principle of the rule proposed but put forward different wording without any reasons which was not accepted by the Respondent.

32.2. Respondent's case

Other than confirming it agreed that homeowners could work at home it offered no explanation.

32.3. Tribunal decision

Whilst the parties appear to be broadly in agreement the wording of the rule could be clearer. The Tribunal **quashes Rule 24** and **substitutes** the following **Rule 24**.

Rule 24

You must not use or allow your park home or any part of the Park to be used for:-

- any business purposes
- the storage of stock plant machinery or equipment used or last used for business purposes

This rule shall not prevent occupiers of park homes working at or from home and undertaking any work of a type which does not create a nuisance to other occupiers of homes within the Park or involve other people regularly calling at the Park and or the park home.

- 33.** The proposed **Rules 25, 26 and 27** which can conveniently be considered together are set out below.

Rule 25

You are responsible for the disposal of all household recyclable and garden waste in approved containers through the local authority service.

Rule 26

You must not deposit waste or rubbish other than in local authority approved containers on any parts of the park (including any individual pitch)

Rule 27

You or your visitors are not permitted to deposit garden waste, building materials or general rubbish on any part of the land that forms Oaklands Residential Park

33.1. Applicant's case

The Applicant does not object to the principle of the three rules but suggested that a single consolidated rule would be sensible.

33.2. Respondent's case

The first two rules were necessary to control rodents and other pests and the third rule was necessary to preserve the appearance of the Park.

33.3. Tribunal's decision

The Tribunal, having detected agreement between the parties, determines that a single consolidated rule would address the Respondent's expressed requirements. It **quashes Rules 25, 26 & 29**. It **substitutes** the following **Rule 25**.

Rule 25

Occupiers of park homes must dispose of all household waste including recyclable items and garden waste by placing it in permitted enclosed containers pending removal by the local authority or other authorised contractor. No waste of any description may be deposited on any other part of the Park. No-one living on the Park or visiting it is permitted to despoil any part of the Park by depositing waste.

34. The proposed **Rule 28** is set out below.

Rule 28

The Park owner retains the right of approval of improvements to the pitch, approval will not unreasonably withheld or delayed.

34.1. Applicant's case

Concerns were expressed again by those residents present as to how quickly the Respondent would approve any requests made. They considered this rule unnecessary.

34.2. Respondent's case

The Respondent again referred to the Site Licence and the fire safety conditions.

34.3. Tribunal decision

Having considered the parties arguments the Tribunal quashes this rule and does not substitute a different rule. The proposed Rule 40 which the Applicant indicated could be agreed would cover this, eliminating the need for several similar references in other proposed rules. The requirement for compliance with the Site Licence and fire safety conditions will be caught by the proposed **Rule 40**.

35. The proposed **Rules 29 and 30** can conveniently be considered together and are set out below.

Rule 29

You must not use hoses except in the case of fire

Rule 30

You must only use fire point hoses /extinguishers in case of fire

35.1. Applicant's case

They believe that use of water can be adequately controlled by allowing sparing use of hoses. The Respondent has accepted the amendment proposed to Rule 30.

35.2. Respondent's case

It is suggested that Rule 29 is eco friendly and thus should be acceptable.

35.3. Tribunal decision

Rules 29 and 30 are quashed and substituted with **Rule 29** below

Rule 29

Hoses and hosepipes must be used sparingly and not regularly save in case of any fire or other emergency. Fire point hoses/extinguishers may only be used in case of fire or other emergency.

36. The proposed **Rule 31** is set out below.

Rule 31

You must protect all external water pipes from potential frost damage.

36.1. Applicant's case

After some discussion the Applicant acknowledged that the responsibility for the pipes between the stopcock and the park home should be the pitch occupiers.

36.2. Respondent's case

The Respondent suggested that the rule would benefit the Applicant by minimising the risk of leaks during periods of cold weather.

36.3. Tribunal decision

Rule 31 is quashed and the following rule is **substituted**.

Rule 31

Occupiers of park homes must protect external water pipes between the park home and the stopcock from frost damage by insulating those pipes.

37. The proposed **Rule 32** is set out below

Rule 32

You must not use or display guns firearms and offensive weapons (including crossbows) on he park and you may only keep them on the pitch or in your home if you hold the appropriate licence and they are securely stored in accordance with that licence.

37.1. Applicant's case

The Applicant acknowledged that its comments on the CRD were an error and confirmed agreement to the proposed rule.

37.2. Tribunal decision

The proposed **Rule 32 is confirmed** as the Applicant has confirmed it is now agreed.

38. The proposed **Rules 33 and 34** are set out below and have been considered together.

Rule 33

Visitors are permitted to stay for only a short period of time

Rule 34

You are responsible for the conduct of your visitors and visiting children

38.1. Applicant's case

Strong representations that these two rules were unnecessary were made by the Applicant.

38.2. Respondent's case

Although the Respondent has suggested that Rule 33 was necessary to prevent another person permanently residing with a resident on the Park it did no express any opinion on what would be a short period of time.

38.3. Tribunal decision

Rule 33 contains a discretionary element and therefore cannot be accepted. Having taken note of the Applicant's comments, recorded in the CRD, the Tribunal agrees that Rule 34 is unnecessary. **Rules 33 & 34 is quashed.**

39. The proposed **Rule 35** is set out below

Rule 35

The park owner retains the right to approve types of trees and shrubs being planted on your pitch or any where on the park. Approval will not be unreasonably withheld. The park owner retains the right to approve trees and shrubs being cut down, trimmed or removed, approval will not be unreasonably withheld.

39.1. Applicant's case

The practicality of such a rule was questioned. The Applicant again collectively recounted that in the past it had not been possible to obtain a response from the Park owner when consent is required. Neither could the residents understand why approval would be needed to trim shrubs.

39.2. Respondent's case

Mrs Valler said that she did not want unsuitable trees planted on pitches which may grow too quickly and become a problem on the Park. Following some discussion she accepted that it was the trees not routine trimming of shrubs which concerned the Respondent.

39.3. Tribunals decision

Rule 35 is quashed. It is **substituted** with **Rule 35** following, the wording of which was discussed and agreed with the Respondent at the Hearing.

Rule 35

Pitch occupiers must notify the Park Owner in writing before planting a tree on a pitch. Trees must not be planted anywhere else within the Park. The Park Owner may object to any planting which contravenes the Site Licence but must do so within 14 days of receiving written notice.

40. The proposed **Rule 37** is set out below.

Rule 37

Washing lines are to be reasonably screened from public view

40.1. Applicant's case

Originally their response was that such a rule was unnecessary but a suggested softening of the rule by the addition of the words "where feasible" was a compromise which could be accepted.

40.2. Respondent's case

Mrs Valler was prepared to accept the compromise. She wanted the park to look attractive.

40.3. Tribunal decision

No washing lines had been visible during its inspection. It accepted that where possible these should not be visible from the roads. Other parks had agreed rules which required the use of retractable lines or rotary lines which could be removed or covered when not in use. However as the compromise discussed was acceptable to both parties it **quashed Rule 37** and substituted it with the following **Rule 37**

Rule 37

Washing lines are to be reasonably screened from public view where possible.

41. The proposed **Rule 39** is set out below.

Rule 39

Occupiers are responsible for ensuring that both electrical and gas installations and appliances comply at all times with the requirements of the institution of electrical engineers and or other appropriate authorities.

41.1. Applicant's case.

The Applicant considers that this rule is unnecessary and that it is “a statement of the obvious”.

41.2. Respondent's case

Mrs Valler said the rule was necessary for the safety of the Park residents.

41.3. Tribunal decision

The rule proposed is similar to the legal requirement imposed on landlords with regard to tenanted property. It is inappropriate and unnecessary to impose an obligation on an owner of a mobile home since clearly the electrical and gas installations and all appliances are his responsibility and belong to him. If these are faulty no blame will lie with another party unless the fault is as a result of an action or omission of that party which directly impacts on the installations. The Tribunal **quashes Rule 39.**

42. The proposed **Rule 40** is set out below.

Rule 40

You are required to comply with the regulations of the site licence water authority or any other statutory authority.

42.1. Applicant's case

Their original response was that this was unnecessary although the latest correspondence suggests that they would accept the rule.

42.2. Respondent's case

Its response suggested that the Rule was necessary to maintain standards but it did not explain why incorporating the obligations in a rule would make a difference given that occupiers would always be obliged to comply with statutory obligations.

42.3. Tribunal decision

The Tribunal has not accepted reference in other proposed rules to compliance with the Site Licence, because it would be caught in essence by the proposed Rule 40. It accepts the principle of Rule 40 but **substitutes the following Rule.**

Rule 40

Occupiers of Park homes must not do anything which will cause the Park Owner to be in breach of the Site Licence. Occupiers must comply with current regulations imposed by statutory undertakers.

43. The proposed **Rule 41** is set out below.

Rule 41

You or your visitors are not permitted entry on vacant pitches, pitches with vacant/park stock homes, or restricted areas of the park.

43.1. Applicant's case

This was unnecessary; neither did they understand why any areas within the park should be restricted.

43.2. Respondent's case

Mrs Valler said that this was a safety requirement.

43.3. Tribunal decision

It has noted that there was heras fencing enclosing an area on the boundary of the Park. It was not clear why this area was enclosed or a restricted area. It accepted that it was inappropriate on occasions for Park residents to have access to every area of the Park. Clearly safety would be a valid consideration during installation or construction works. In its latter representations, which the Respondent had claimed not to have received, the Applicant agreed to this rule so the Tribunal **confirms Rule 41.**

44. Numbering of Rules

The Tribunal reminds both parties that where necessary the original numbering of the proposed 41 Rules should be changed to reflect those rules quashed or combined.

Judge Cindy A Rai
Appeals

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 which application must:-

- a. be received by the said office within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
 - b. 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
2. If the application is not received within the 28-day time limit, it must include a request for an extension of time and the reason for it 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.