



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

Case Reference : CHI/23UG/PHM/2015/0005

Property : 1, Willow Drive,
Woodmancote Park Homes,
Cheltenham GL52 9JF

Applicant : AS and ES Loveridge

Representative :

Respondent : Mrs VC Houston

Representative :

Type of Application : Refusal order under the Mobile Homes Act
1983 (as amended)

Tribunal Member(s) : Judge D. Agnew

Date and venue of CMH :

Date of Decision : 17th December 2015
Date of Reasons : 7th January 2016

DECISION

Background

1. The Applicant is the site owner of a protected Park Home site at Woodmancote Park Homes, Woodmancote, Bishops Cleeve, Near Cheltenham, Gloucestershire GL52 9JF. The Respondent was at the date of the application herein and at the date of the determination the owner of a mobile home on a pitch at 1, Willow Drive, Woodmancote Park Homes. The Respondent agreed to sell her mobile home and to assign the Mobile Homes Act agreement in respect thereof to a Mrs Rosalinde Etheridge. The Applicant objects to the proposed sale on the ground that Mrs Etheridge stated on the Schedule 2 Notice of Proposed Sale Form sent to the Applicant dated 4th November 2015, that she intended to park one Toyota van and possibly one small car on the Park. The Applicant says that this would be against the Site Rules.
2. By an application dated 26th November 2015 and received at the Tribunal office on 1st December 2015 the Applicant applied for a refusal order preventing the Respondent from selling her park home to Mrs Etheridge under Paragraph 7B of Chapter 2 Part 1 of Schedule 1 to the Mobile Homes Act 1983 as amended (“the Act”).
3. The Tribunal issued Directions on 2nd December 2015 requiring the Respondent to file and serve her statement of case by 16th December 2015 together with any witness statements, the Application form being taken to be the Applicant’s case. The Directions also stated that the tribunal proposed to determine the application on the basis of written representations and without a hearing under Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 unless either party objected within 28 days of receipt of the Directions. Neither party so objected.
4. The Respondent filed and served her statement of case together with copies of correspondence and other documents supplied by Mrs Etheridge referred to below. The application was determined by me on 17th December 2015. In view of the urgency of the matter and, in particular, Mrs Etheridge’s desire to complete the purchase of the mobile home and move in prior to Christmas the outcome of the application was notified to the parties by letter dated 17th December 2015. The letter stated that full reasons would be issued early in the New Year and that the period for any appeal would not start to run until after full reasons were issued to the parties.

The Applicant’s case

5. The Applicants’ case is very straightforward. They say that the Schedule 2 Notice clearly states that it is the proposed purchaser’s intention to park a van on the Park, that the Site Rules prohibit this. The precise rule is that: “No vans or commercial vehicles, no campers, touring caravans or boats are to be kept or parked on the Park”. Thus, Mrs

Etheridge would be in breach of that site rule if she were to proceed, as was her stated intention, to bring her Toyota van onto the Park and to park it there. It is a ground upon which a site owner can object to a sale if the proposed purchaser would be in breach of site rules if the sale went ahead. The Applicants therefore sought a refusal order from the Tribunal to prevent the sale from taking place.

The Respondents' case

6. The Respondent's case was that Mrs Etheridge was aware of the "no vans" rule when she filled out the Schedule 2 Form but thought that because she used her van for domestic and not commercial purposes she would be able to discuss this with the site owner and that it could perhaps be allowed. Once she realised that the site rule prohibited vans of all descriptions she undertook not to bring the van on the Park, that she would sell it and that until sale it would be stored on Kaytes Farm in Cheltenham. The Respondent produced a letter from Mrs Etheridge dated 28th November 2015 confirming her intention to sell the van and buy a car, a receipt for the car that Mrs Etheridge did buy, a copy of the advertisement for the sale of the Toyota van and an email from Mrs Etheridge confirming that the van would be stored on the farm in Cheltenham.

The Law.

7. Paragraph 7B of Part 1 Schedule 1 to the Act as amended by the Mobile Homes Act 2013 provides as follows:-

"7B(1) Where the agreement is not a new agreement, the occupier is entitled to sell the mobile home and assign the agreement without the approval of the owner if –

- (a) the occupier serves on the owner a notice (a "notice of proposed sale") that the occupier proposes to sell the mobile home and assign the agreement to the person named in the notice (the "proposed occupier") and
- (b) the first or second condition is satisfied.

(2) The first condition is that, within the period of 21 days beginning with the date on which the owner received the notice of proposed sale ("the 21-day period") the occupier does not receive a notice from the owner that the owner has applied to a tribunal for an order preventing the occupier from selling the mobile home, and assigning the agreement, to the proposed occupier (a "refusal order").

- (3) The second condition is that –
 - (a) within the 21-day period –
 - (i) the owner applies to a tribunal for a refusal order, and

- (ii) the occupier receives a notice from the owner, and
- (b) the tribunal rejects the application
- (4) If the owner applies to a tribunal for a refusal order within the 21-day period but the occupier does not receive notice of the application within that period –
 - (a) the application is to be treated as not having been made, and
 - (b) the first condition is accordingly to be treated as satisfied
- (7) An application for a refusal order may be made only on one or more of the grounds prescribed in regulations made by the Secretary of State.
- 8. By Regulation 7 (1) of The Mobile Homes (Selling and Gifting) (England) Regulations 2013 it is stated that “The grounds prescribed for the purposes of paragraph 7B(7) of Chapter 2 of Part 1 of Schedule 1 to the 1983 Actare that, if the proposed occupier were to become the occupier, the proposed occupier or a person intending to reside with the proposed occupier would breach a pre-commencement rule or site rule –
 - (a) [not relevant]
 - (b) [not relevant]
 - (c) By parking vehicles on the site that are of a description specified in the rule.”

The Tribunal’s decision

- 9. The Applicants’ application to the Tribunal was made prior to their receipt of the undertakings from the proposed purchaser, Mrs Etheridge, that she would not keep or park on the Park her Toyota van, that she would sell the van and until sale she would store it elsewhere than on the Park. The Tribunal is satisfied that if Mrs Etheridge complies with her undertakings she will not be in breach of the site rule and there is therefore no justification for the Tribunal making a refusal order. The application for a refusal order is therefore refused.

Decision made and communicated to the parties on 17th December 2015

Date of these reasons: 7th January 2016

Judge D. Agnew

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.
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