



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

**Case Reference** : **MAN/00CH/PHC/2019/0001**

**Property** : **24 Bewicke Maine Residential Park, Birtley,  
Chester-le-Street, DH2 1AX**

**Applicant** : **Dorothy Ann Million**

**Respondent** : **Patrick James (Paddy) Harker**

**Type of Application** : **Under s.4 of the Mobile Homes Act**

**Tribunal Members** : **Judge P Forster  
Mr W A Reynolds MRICS**

**Date of Decision** : **8 July 2019**

---

**DECISION**

---

© CROWN COPYRIGHT 2019

## The Decision

1. The application is not allowed. The respondent's refusal to allow the applicant to erect a fence around her plot is reasonable.

## The Background

2. On 19 February 2019, the Tribunal received an application from Dorothy Ann Million ("the applicant") made under s.4 of the Mobile Homes Act 1983 ("the Act") to decide whether or not she may erect a fence around the boundary of her plot and put plants on the site. The application is opposed by Patrick James (Paddy) Harker ("the respondent") who has refused permission to erect a fence but does not object to the plants.
3. The applicant is the owner of a park home, 24 Bewicke Maine Residential Park, Birtley, Chester-le-Street, DH2 1XQ ("the property"). The respondent is the owner and operator of Bewicke Maine Residential Park ("the site"), which is a licensed site under the Caravan Sites and Control of Development Act 1960.
4. Directions were given on 8 April 2019 that provided that the application would be determined on the papers unless either of the parties requested an oral hearing. Neither party asked for a hearing and the Tribunal inspected the site on 8 July 2019. The Tribunal considered the written submissions received from both parties, including an additional response from the applicant that was received outside the terms of the Tribunal's directions.

## The Applicant's Case

5. The Applicant purchased her park home on 23 May 2017 from Jane Harker who then owned the site. She also entered into an option agreement to exchange that park home for another park home on the site when a suitable park home and plot became available. The applicant negotiated the purchase of the park home with the site manager, Tina Harker.
6. The applicant has a pet dog and wanted a fence around the plot to prevent the dog from straying. She was told to speak to Paddy Harker who looked after the site [this was before he became the site owner]. He agreed to provide a fence, but when the applicant moved in, she found that he had only erected a small square pen at the end of the path outside the park home. This was not what the applicant was expecting, and it did not provide enough space for her dog to run around. The applicant removed the pen. She did not complain at the time because she hoped to move to another plot and decided to wait and erect a permanent fence on the new plot. However, when no suitable plot became available, the applicant decided to remain on plot 24 and she asked for permission to erect a fence, but her request was refused.

7. The applicant produced a copy of the site rules that she was given when she took up residence on the site. Rule 6 provides that permission is required from the site manager to erect a fence. The applicant later found out that those site rules were not the rules that had been deposited with the local authority. Mr Armstrong, the Council's environmental health officer, states that those rules were deposited on 9 March 2015. The rules deposited with the local authority provide that fences must not be erected without written permission which is not to be unreasonably withheld. The applicant considers that the refusal to allow her to erect a fence is unreasonable because there are fences around other plots on the site and the erection of a fence around her plot would not detract from the appearance of the site. The applicant makes the point in her application that the respondent has breached the no fence rule by erecting the dog pen next to her park home.

### The Respondent's Case

8. The Respondent's case is that the applicant had been looking to buy a home on the site since 2016. She viewed a home on the back row of the site on 27 April 2017, that was for sale privately by one of the residents. The applicant asked if there were any other homes for sale and she was shown plot 24 which is at the front of the site. Tina Harker says that the applicant had wanted a home on the back row or on the left side of site nearer to the fields with less traffic for her dog. Tina Harker informed the applicant that no fencing was to be erected on the front of the site. The applicant said that she was currently living in a friend's static caravan on another site and she needed to buy a park home of her own because her friend was returning.
9. It was agreed that a dog pen would be erected as a temporary solution until the applicant moved from no.24 to another plot. It was agreed that the applicant part exchange her home for another when one became available and that it would be sited at a location suitable for her and her dog. The reason for this agreement was that the applicant was told the plots at the front were to be open plan and that fences not be allowed. The applicant has had the opportunity on two occasions to part exchange for another plot, but she has decided not to move because she has settled into plot 24. The respondent objects to the proposed fence around no. 24 because he wants to improve the look of the site by keeping the front row open plan. As to the fences that are already on the site, the respondent says that he is removing the fences of the rental properties as they become vacant and that he will ask the other residents to request his permission as and when any existing fences need to be replaced.
10. The respondent says that the applicant was given a copy of the current site rules at the time of purchase and it clearly states that permission would be needed to carry out any alterations, including the erection of any fences. Permission has not been refused to the applicant to personalise her plot with plants or planters around the property.

## The Law

11. S.4 of the Act which gives the Tribunal jurisdiction provides that:

*“The court [the tribunal] shall have jurisdiction to determine any question arising under this Act or any agreement to which it applies, and to entertain any proceedings brought under this Act or any such agreement”.*

12. S. 9 of the Mobile Homes Act 2013 amends the 1983 Act 1983 to provide a new statutory framework for site rules in England. That is given effect by The Mobile Homes (Site Rules) (England) Regulations 2014. Regulation 18 (1) (a) provides that:

*“The Mobile Homes (Written Statement) (England) Regulations 2011 are amended as follows: ‘In Part 1 of Schedule 1, after paragraph 3 (express terms), insert:*

*3A the site rules for your site, as deposited with your local authority, also form part of the express terms of your agreement, which are set out in Part 3 of this statement...”*

## The Decision

13. The site is a permanent residential caravan park and is a “protected site” as defined by the Mobile Homes Act 1983. Gateshead Council licensed the site to Jane Harker, the former owner, on 18 June 2015. The site was transferred by her to the respondent on 21 July 2017. The licence remains in Jane Harker’s name.
14. The site rules deposited with the Council on 9 March 2015 form part of the express terms of the agreement between the applicant and the respondent by virtue of regulation 18 (1) (a) of the 2014 Regulations. Those rules clearly provide that the site owner’s consent to the erection of fences is not to be unreasonably withheld.
15. S. 2C (2) of the Mobile Homes Act 1983 as amended, provides that site rules must relate to the “management and conduct of the site”. In the view of the Tribunal, rules have to be necessary to ensure acceptable standards are maintained on the site, which will be of general benefit to occupiers.
16. The site is situated in a rural location near the village of Birtley, County Durham. It is a well-established site with more than forty existing park homes. There are many unoccupied plots on the site. Most of the park homes are about thirty years old or more. The site appears to be adequately maintained but it is dated in appearance and is in need of renovation which will benefit the existing residents and will help to attract new homeowners who will enhance the community. The applicant’s park home is situated near the entrance to the site

on the front row. It is modern in design and construction and of a different style to the older homes on the site. There are currently four modern park homes on the front row, including the applicant's home, with two additional unoccupied plots. None of them has a fence around them. Work has been done to improve the appearance of the entrance to the site, including flower beds and new signage.

17. The Tribunal notes the respondent's submission that he wishes to improve the appearance of the site by maintaining an open plan layout to the front row of the park homes where the applicant's home is situated. The Tribunal finds this to be a laudable objective and to be of general benefit to the residents on the site.
18. There are a number of other pitches on the opposite side of the roadway to the appellant's home which have fences around them. They are dated in construction and are not in immediate view when entering the site. Many of the park homes further back on the site have fences and garden areas.
19. The site rules must be applied equally and fairly to all the residents. The applicant relies on the fact that many of the other homes on the site have been fenced off. That is correct but those homes are of an older design and construction and in contrast, the applicant's new park home is in a row of similar new homes in an unfenced open plan area.
20. The Tribunal finds that the dog pen constructed by the respondent and now removed by the applicant was not a fence and did not breach the rule against fences which the respondent seeks to impose. The dog pen was in any event intended as a temporary measure to accommodate the applicant's dog before she moved to another pitch on the site. The dog pen was situated at the far end of the applicant's park home and did not enclose the pitch.
21. The question is whether it is reasonable for the respondent to deny the applicant's request to erect a fence around her park home. The Tribunal concludes, taking all the facts into account, that it is reasonable for the respondent to say no to the proposed fence because it is done to improve and promote the site which will be to the general benefit of all residents. The site is in need of improvement and together with the work already carried out, the prohibition against fences on the front row will further that objective.
22. For these reasons the application is not allowed.

**Judge P Forster**  
**12 July 2019**