



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

Case reference : CAM/12UC/PHI/2019/0017

Park Home Address : 5 The Lanterns Bedwell Park, Bedwell Hey Lane,
Witchford, Ely CB6 2JS
: 7 The Lanterns Bedwell Park, Bedwell Hey
Lane, Witchford, Ely CB6 2JS

Applicant : Tingdene Parks and Tingdene Developments
Ltd

Representative : Ryan and Frost Solicitors – Mr Ryan

Respondent : Mr and Mrs Clives (5)
Mr and Mrs Lattimore (7)

Date of Application : 6 June 2019 (received 20 June 2019)

Type of application : to determine the new pitch fee -
paragraph 18 of Schedule 1 to the
Mobile Homes Act 1983, as amended (“the
Act”)

The Tribunal : Mary Hardman FRICS IRRV(Hons)
Judge Wayte

DECISION

Crown Copyright ©

1. The Tribunal determines that there should be no increase in the pitch fees for either pitch and that the new pitch fee for the pitch known as 5 The Lanterns Bedwell Park, Bedwell Hey Lane, Witchford, Ely as from 1 April 2019, is therefore **£2110.32 per annum** and for 7 The Lanterns Bedwell Park, Bedwell Hey Lane, Witchford, Ely as from **1 April 2019, is £2110.32 per annum.**

Reasons

Background

2. The Respondents are the occupier of adjacent park homes at the Park Home Addresses. They have not agreed to an increase in pitch fees for 2019. The site owner must therefore apply to this Tribunal if it is to obtain an increase in pitch fee. The annual review date for pitch fees is 1 April 2019 as set out in the occupation agreement.

3. On the 29 January 2019 notice of the proposed new pitch fee, in the prescribed form, was served on the respondents, explaining that as from the 1 April 2019 the pitch fee would be increased by 2.7% in line with RPI for December 2018, in accordance with the Office for National Statistics RPI All Items table.
4. An application dated 6 June 2019 but received on 20 June 2019 was made to the Tribunal for determination of a new level of pitch fee. The Tribunal issued a directions Order on 10 July 2019 saying that the Tribunal proposed to deal with this application by considering the papers only, without a hearing, and would do so on or after 13 September 2019 unless any party requested an oral hearing which would then be arranged.
5. No such request was received although the parties did request the Tribunal to inspect, which it did on 24 September 2019.

The Occupation Agreement

6. A copy of the original agreements has been produced by the Applicant. The only material amendments since have been to give this Tribunal, rather than the County Court, jurisdiction to deal with the approval of pitch fees if agreement cannot be reached.
7. The tenancy agreement in respect of 5 The Lanterns between Tingdene Developments Ltd and Mr and Mrs Clives commenced on 26 April 2018 and was the first agreement in respect of what was new pitch on the site.
8. The tenancy agreement in respect of 7 The Lanterns between Tingdene Developments Ltd and Mr and Mrs Lattimore commenced on 30 November 2017 and was the first agreement in respect of what was a new pitch on the site.

The Law

9. Paragraph 20 of the Implied Terms set out in Chapter 2, Part 1 of Schedule 1 to the Mobile Homes Act 1983 states that – unless it would be unreasonable to do so – it is presumed that the pitch fee will be adjusted annually by reference to the percentage increase or decrease in the Retail Prices Index based on the difference between the latest index and that published for the month 12 months prior to the month to which the index relates.
10. The site owner must give the occupier written notice accompanied by a prescribed Pitch Fee Review Form. The Tribunal notes that the prescribed forms have been used in each case and the relevant time limits have been complied with.
11. Paragraph 18 (1) Chapter 2, Part 1 of Schedule 1 to the Mobile Homes Act 1983 of requires that

When determining the amount of the new pitch fee particular regard shall be had to—
(a) any sums expended by the owner since the last review date on improvements—
(i) which are for the benefit of the occupiers of mobile homes on the protected site;

- (ii) which were the subject of consultation in accordance with paragraph 22(e) and (f) below; and*
 - (iii) to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the appropriate judicial body, on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;*
 - (aa) in the case of a protected site in England, any deterioration in the condition, and any decrease in the amenity, of the site or any adjoining land which is occupied or controlled by the owner since the date on which this paragraph came into force (in so far as regard has not previously been had to that deterioration or decrease for the purposes of this subparagraph);*
 - (ab) in the case of a protected site in England, any reduction in the services that the owner supplies to the site, pitch or mobile home, and any deterioration in the quality of those services, since the date on which this paragraph came into force (in so far as regard has not previously been had to that reduction or deterioration for the purposes of this subparagraph);*
12. Upon application, the Tribunal must determine two things. Firstly, that a change in the pitch fee is reasonable and, if so, it must determine the new pitch fee. +

Site Inspection

- 13. The site was inspected on 24 September 2019 by Mrs Hardman and Judge Wayte. They were accompanied by Mr Pearson, Operations Manager and Mr Ryan, Solicitor for Tingdene Developments and by Mr and Mrs Clives and Mr and Mrs Lattimore when inspecting The Lanterns. They also took the opportunity to inspect the sites of a number of other mobile homes which were the subject of applications to determine pitch fees.
- 14. The site consists of around 86 residential mobile homes in the original phase with an extension to the rear of the site for another 23 pitches. 7 of these are complete and 5 and 7 The Lanterns are part of this development. The second phase of a further 16 pitches is still underway and is adjacent to the first phase.
- 15. The site is situated on the edge of the village of Witchford and around 3 miles from the centre of Ely
- 16. The site is occupied mainly by modern style mobile homes. The Park was well laid out with a site office towards the front of the site displaying site information both in the window and internally. The tribunal were advised that there is also use of an 'A' board to bring to residents notice any forthcoming works or items of note.
- 17. The roads to the main site were mainly hard surfaced although somewhat uneven in places with some potholes. In respect of The Lanterns the finishing surface of tarmacadam to the base course is yet to be laid and is scheduled for the end of this year.

18. There was some street lighting to The Lanterns although it was not possible during daylight to judge the effectiveness of this.
19. The ongoing development is visible from both pitches although the Applicant has erected a white 6ft hoarding to seek to obscure it and the noise of the building work was clearly discernible.
20. To the rear of 7 The Lanterns and to the side of 5 The Lanterns the Tribunal observed the ditch which is referred to in their submissions. This was dry, despite it being a very wet day but the tribunal also noted that the ditch appeared widened in places and there was an amount of debris in the ditch.
21. The rear fencing to both pitches is close to the edge of the ditch and the Applicant has installed a concrete/timber support immediately behind the timber fence to the rear of 7 The Lanterns.
22. The tribunal also observed unevenness in the paving slabs in the back garden of number 7.

The Respondents' case

23. The Tribunal directions required the Respondents to file a response to the application, setting out why agreement cannot be reached on the suggested increase of pitch fee in accordance with the RPI.
24. In their statement of case Mr and Mrs Clives, 5 The Lanterns, stated that they did not agree that the pitch fee should be increased as there were outstanding issues with the part of the site upon which their plot stands. They had been unable to reach an agreement with the Applicant and supplied a number of items of correspondence to illustrate this.
25. This included a copy of the site licence although no specific claim was made as to whether they believed that there has been any contravention of this.
26. The bundle also included a letter to Tingdene dated 20 May 2019 setting out that in advance of paying any pitch fee increase they required the road to be made up, an additional permanent light between 3 and 5 The Lanterns, information on when the white 6ft fence installed to obscure the view of the new development and work on the ditch to the rear of the property to clear and stabilise it – should it be the responsibility of Tingdene.
27. They also included the reply from Tingdene which stated that the top surfacing of the road would be completed by the end of the year. Further lighting would not be provided by the company and the white fence was erected at the residents' request. Finally, they did not believe that the ditch/dyke and bank were of any risk but would get their contractors to assess and rectify any issues.
28. There followed several exchanges on the same issues where the parties continued to disagree with the others position. Mr and Mrs Clives also provided colour

photographs of the dyke/ditch as part of their submission and a plan of the site indicating where they believed the lighting had been shown on the original plans.

29. In respect of 7 The Lanterns, Mr and Mrs Lattimore filed their response to the directions stating that the previous summer they had been subject to large amounts of noise, mess, disturbance and 'near misses' due to contractor's plant and vehicles. Deliveries of building materials and large amounts of soil and rubble transported around the site meant the roads were muddy. Contractors vehicles blocked roads causing inconvenience and potential health and safety issues. In addition to the development work there had also been work demolishing old mobile homes, laying new bases and re-siting new homes on the main site.
30. The building site is an eyesore and has been so for 20 months and the erection of the white fence does not block the view due to their elevated position.
31. Drainage is an issue and installation of drainage last summer around the pitch had been inconvenient and should have been done prior to their occupation of the pitch
32. They state that there is rapid ground erosion immediately behind their back fence due to the closeness to the steep banks of the ditch/dyke. This has caused paving slabs to move and to need repositioning but they believe this is only a temporary fix. They do not believe the timber/concrete stay (see para 21) will stop the effects of the erosion.
33. Additionally, the ditch contains building rubble which prevents water flow and attracts insects.
34. Similar to Mr and Mrs Clives they are unhappy with the lighting provision and believe that there are one/two missing lights but they believe that East Cambridgeshire District Council has agreed additional lighting with the Applicants. They provided an e mail from the Senior Environmental Health Officer at the Council confirming this agreement.
35. Also, as in Mr and Mrs Clives case there is an earlier exchange with Tingdene in respect of the items in their filed response
36. Finally, they also submitted colour photographs of the ditch to the rear and the concrete/timber support structure.

The Applicant's case

37. The Applicant submitted a statement of case dated 14 August 2019 and a witness statement and exhibits dated 30 July 2019.
38. The Applicant was seeking a determination that the pitch fee for 5 The Lanterns and for 7 The Lanterns should be increased by RPI as set out in Paragraph 20 of the Implied Terms set out in Chapter 2, Part 1 of Schedule 1 to the Mobile Homes Act 1983.

39. The park was an established park but over the last three years the Applicant company had been developing the park by adding 23 new pitches. The first phase of 7 (1-7 The Lanterns) were complete and the remaining 16 under construction.
40. In respect of 5 The Lanterns he did not believe that there had been a deterioration in the road surface and the tarmacadam top coat would be laid by the end of the year.
41. There had been no deterioration in the street lighting since Phase 1 (1-7 The Lanterns) had been completed.
42. In respect of Mr and Mrs Lattimore they acknowledged that they have experienced some degree of discomfort being amongst the first to move onto The Lanterns but not to the degree they claimed.
43. He also acknowledged that there had been some drainage issues but these had been rectified.
44. Their complaints about the paving and fencing mainly related to their pitch and not the park and they did not believe that the ditch was dangerous or detrimental.
45. In his witness statement Mr Pearson said that the screen (6ft white fence) meant that the development work on Phase 2 was not easily visible and all construction traffic entered the site from Grunty Fen Rd – and not from roads servicing the Lanterns or other park roads.
46. Finally, the Applicant company would not object to occupiers installing additional lighting to their pitch provided it did not cause a nuisance or annoyance to their neighbours

Discussions and Determination

47. The Tribunal has considered the submissions filed by the parties.
48. For the purposes of the 1983 Act, the Tribunal must consider whether there has been any deterioration/decrease in the condition or amenity of the park since the last review date which is 1 April 2019 for 7 The Lanterns, or, if there is not a previous review date, as is the case for 5 The Lanterns, the date when the agreement commenced (26 April 2019)
49. If it did find that there has been any deterioration/decrease in the condition or amenity of the park, then whether it would be unreasonable for the pitch fees to be increased on the basis of the increase in the retail prices index.
50. In respect of the proximity to the ditch/dyke this is a matter of fact – the pitch boundaries are close to the edge of the ditch. This is not something which has changed since the last review or since the pitch agreements were first signed – which is only some 12 -18 months ago. There may be some movement and this

is something which the occupiers will want to keep under review. In terms of the ditch, which Tingdene seem to have accepted is their responsibility the tribunal found that there was work that could usefully be done to tidy it up and to ensure that the sides were more stable and the tribunal would encourage them to do so.

51. In terms of lighting it seems unfortunate that agreement cannot be reached as to what is a reasonable level of lighting for The Lanterns and the tribunal would hope that the parties were able to come to a suitable arrangement.
52. The tribunal accepts that it is necessary on a mobile home park to remove and re-site mobile homes from time to time and to re-lay bases on mobile home pitches. The tribunal did not believe that this activity had been excessive nor had it led to any significant detriment to the amenity of the site.
53. The tribunal accepts the evidence put forward by Mr Ryan that Tingdene have attempted to obscure the view of the development site by the installation of the white fence. However, the tribunal does also accept the evidence from both Mr and Mrs Delves and Mr and Mrs Lattimore that there has been an increase in noise and dust due to the significant amount of construction work going on to expand and develop the site and that they are able to see and hear the ongoing construction work from their pitches. The fence does not obscure the development from their pitches given the elevated position and does not reduce the noise.
54. On that basis, the Tribunal finds that there has been a deterioration in the condition and a decrease in the amenity of the site and that they are particularly affected given the proximity to the new development.
55. Accordingly, the Tribunal finds that there should be no increase to the pitch fee for either property and that the pitch fee in respect of both 5 The Lanterns and 7 The Lanterns should remain at **£2110.32 per annum.**

Mary E Hardman FRICS IRRV(Hons)
Deputy Regional Valuer

31 October 2019

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.