



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

**Case reference** : CAM/12UC/PHI/2019/0018

**Park Home Address** : 10 Priors Close Bedwell Park, Bedwell Hey Lane,  
Witchford, Ely CB6 2JS

**Applicant** : Tingdene Parks and Tingdene Developments  
Ltd

**Represented by** : Ryan and Frost Solicitors – Mr Ryan

**Respondent** : Karen Fry

**Date of Application** : 6 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

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**DECISION**

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1. The Tribunal determines that the new pitch fee for the pitch known as 10 Priors Close Bedwell Park, Bedwell Hey Lane, Witchford, Ely as from **1 April 2019, is £1869.78 per annum.**

**Reasons**

**Background**

2. The Respondent is the occupier of the park home at the Park Home Address. She has 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.
3. On the 29 January 2019 notice of the proposed new pitch fee, in the prescribed form, was served on the respondent, 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 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. Such a request was received from Miss Fry and a hearing date set for 24 September 2019.

### **The Occupation Agreement**

6. A copy of the original agreement 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 original tenancy agreement was between Tingdene Developments Ltd and Pamela Mary Cynthia Goodey and commenced on 27 July 1988. It was transferred by way of assignment to Miss Fry on 9 August 2013.

### **The Law**

8. 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.
9. ‘Latest’ is defined in Paragraph 20 (A2) (a) as the last index published before the day on which the notice is served.
10. The site owner must give the occupier written notice accompanied by a prescribed Pitch Fee Review Form. The prescribed form has been used and the relevant time limits have been complied with in this case.
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 immediately prior to the hearing by Mrs Hardman and Judge Wayte. They were accompanied by Mr Pearson, Operations Manager and Mr Ryan, Solicitor for Tingdene Developments and Miss Fry in respect of the vicinity of her pitch. 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 but for which the relevant parties did not request a hearing.
14. The site consists of around 86 residential mobile homes in the original phase with an extension to the rear of the site for a further 23 pitches. 7 of these are complete.
15. The site is situated on the edge of the village of Witchford and around 3 miles from the centre of Ely
16. The main part of the site, excluding the area under development, 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 Park is served by some street/kerbside lights. With regard to the roads, these were hard surfaced although somewhat uneven in places with some potholes.
18. Much of the park is on a slope towards the rear of the site and drainage is a mixture of gulleys, soakaways and drainage grates and channels. It was a particularly wet day and areas of puddling were noticed outside a number of the park homes, although not excessive given the weather.
19. There was a crack in the surface to the parking space adjacent to Miss Fry's pitch but no significant difference in levels. Miss Fry also indicated the base where she had stated in her submission that there was a 3 foot crack. The tribunal were not able to view the base to see the crack.

20. The new development was progressing to the rear of the site some distance from the subject property. However, the tribunal were also shown a site closer to the property where a mobile home had recently been removed and the base re-laid – a process that we were told took around 7 days. They also saw a site where this was due to happen shortly.

### **The Hearing**

21. The hearing took place following the inspection. At the request of Miss Fry the tribunal agreed to hold the hearing in her home at the site as she was not able to travel very easily.
22. Present at the hearing were Mr Pearson and Mr Ryan for the Applicants, Tingdene Developments and the Respondent Miss Fry.
23. Mr Ryan for the Applicants sought leave for a second witness statement by Mr Pearson to be admitted, which had been sent to the tribunal and Miss Fry on 18<sup>th</sup> September. He believed that the tribunal should agree to this following the late receipt of Miss Fry's statement of case. This was admitted subject to the Respondent having the right to respond in writing by 4 October 2019 which she duly did.

### **The Pitch Fee review**

24. Mr Ryan for the Applicant referred to a copy of the Pitch Fee Review Form which was in the bundle of documents before the Tribunal. He briefly outlined the process for arriving at the new pitch fee. The notice had been served on 29 January 2019, in advance of the 1 April 2019 review date. Regard had been had to the provisions of paragraph 18 (1) (a) (aa) and 18(1) (ab) Chapter 2, Part 1 of Schedule I MHA 1983 and no adjustment had been made under these sub paragraphs.
25. The presumption as set out in paragraph 20 had been adopted and the pitch fee increased by RPI. As set out in paragraph 20 (A2) (a) this was the RPI for December 2018 and was 2.7%.

### **The Respondent's case**

26. Miss Fry questioned whether the RPI adopted in calculating the pitch fee increase was correct. She believed that it should be the RPI immediately prior to the date of the increase – therefore March 2019 as opposed to that published in January which was December RPI. She also questioned why it was RPI and not CPI.
27. She questioned whether the site was correctly licensed for the number of homes that were currently on the site and whether the license was correct as at one stage she believed that it had been stated to be a seasonal site
28. She did not accept that the development of the new pitches was likely to have a positive impact on the site and felt that the amenity of the site would be adversely affected. She felt that the addition of 23 homes, of which 7 were currently

occupied would put additional pressure on the site office and the site manager, bring in more traffic, noise and dogs to the site.

29. There had been a loss of amenity to the site arising from a number of factors. These included obstructions to the roads created by both the development work and work that had gone on to move mobile homes. This meant that other vehicles could not pass and had created issues for residents.  
  
In addition, there was dirt noise and dust created by the site and by the removal and replacement of two adjacent homes. Building work on the development started earlier than 8.30am.
30. There were problems with the drains and sewers at her home which she did not believe were being addressed and were the responsibility of the site owner.
31. She did not believe the water was 'potable' and was having to buy bottled water. She also did not believe that it was reasonable that she was unable to have a water meter and that the water charges were divided amongst residents – as she was a sole occupier this did not seem fair as she did not use very much.
32. The base to the mobile home was cracked – she stated that this was at least 3 feet wide. She had complained in May 2019 and not heard anything until immediately prior to the hearing when someone turned up without any notice first thing in the morning to ask to inspect. She did not believe that this was at all reasonable and she had therefore not given them access.
33. The roads had deteriorated and there was insufficient or inadequate drainage and potholes which creates issues particularly for her as she used a wheelchair but also more generally.
34. Currently it was difficult to get hold of the site manager when needed and to get the information from the company who did not readily respond to correspondence or address her concerns. The current site manager worked less hours than the previous manager and this was a deterioration in amenity.
35. She felt that the company should be doing more to resolve issues between neighbours and to prevent theft from pitches.
36. She also understood that bin collection was due to stop from mobile homes on the site which would be detrimental to the occupiers
37. She was entitled to 'quiet enjoyment' of her home and the site owners were not fulfilling their obligation to deliver this nor handling complaints appropriately or sensitively.
38. She did not agree that the company had given permission to the local authority for the installation of a lift to her mobile home, it had already been in situ when she bought the mobile home.

### **The Applicant's Case**

39. Mr Ryan stated that the Applicants did not believe that there had been any loss of amenity nor any undue noise from the development in respect of 10 Priory Close. There were already 2 or 3 homes obscuring the view of the open land that now comprised the development site and therefore there was no loss of view now development had commenced
40. He accepted that the Applicants had bought an older home that was situated nearby but did not accept that this caused any detriment. The works to remove the home and installing a new concrete base took no longer than 7-10 days. There was another site adjacent where similar work would take place.
41. He stated that the park rules and site licence are available for inspection at the site office and that there was a manager employed by the company for the site. He did not agree that the manager was there to intervene in disputes – that such issues should be referred to the local police community support officer.
42. In respect of the sewage pipes that Miss Fry had complained of he stated that there had been an issue between 4 and 5 Priors Close but that had been resolved on 14 June of this year.
43. In respect of cracks alleged to the base the company was happy to investigate these but had not been able to do so to date.
44. He felt that the parking space was not cracked to any detrimental extent nor that there were potholes of any size to the area of the parking spaces nor elsewhere on the park. However, the company monitored the severity of any such defects and currently these were not sufficient to require work.
45. He stated that the roads had been patched but were in satisfactory condition and whilst he conceded that pools of surface water did lie in some places for a short time it was an exaggeration to say that the roads flooded.
46. In terms of salt spreading in icy weather he felt that there was sufficient provision but that the company had been advised not to undertake spreading of salt due to risks of insurance claims.
47. He did not believe that there was an issue with the water quality and that neither the water supply nor the piping had been changed during the time of Miss Fry's occupation. A change to the water supplier does not impact on the water supply itself. He believed that the pipes were mainly black plastic although there was potentially some lead piping. Any cloudiness to the water would soon disappear on running it.
48. There was already a dropped kerb to the parking space next to Miss Fry's pitch and the company had given its consent in 2016 to the local authority for an external step lift to the front door of the mobile home. Miss Fry was able to make alterations to her pitch should she so choose.
49. Electricity and gas were not included in the pitch fee as Miss Fry made payments directly to the suppliers

50. The company refuted any allegations that the company or its staff had harassed, bullied or threatened Miss Fry or had damaged her property or breached her rights.

### **Discussions and Determination**

51. The Tribunal has considered the competing arguments of the parties.
52. 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 in the relevant period and, if it did so find, whether it would thereby be unreasonable for the pitch fees to be increased on the basis of the agreed increase in the retail prices index.
53. The tribunal is satisfied that the Applicant was correct in its adoption of the December 2018 RPI when calculating the pitch fee increase. This was published on 16 January 2019 and was the 'latest' index, as required by Paragraph 20 of the Implied Terms set out in Chapter 2, Part 1 of Schedule 1 to the Mobile Homes Act 1983.
54. The factor to be applied is the percentage increase 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. This was 2.7%. The tribunal has no discretion to adopt CPI
55. 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.
56. A number of the issue raised by Miss Fry in her submission are outside the jurisdiction of this tribunal including the metering of water or provision of separate meters/supplies and the efficiency of the Applicant company in dealing with correspondence. However, the tribunal would urge the Applicant and the Respondent to seek to find a mutually convenient and effective way of communicating on such issues.
57. The tribunal is not qualified to make any judgment on the quality of the drinking water but it would seem unlikely that this was not safe to drink.
58. In terms of the base, which Miss Fry said was cracked but which the tribunal were unable to inspect, this is the responsibility of the Applicant in accordance with the mobile home agreement. The tribunal would urge them to arrange an early appointment with Miss Fry – if this has not been done already – and to identify any work that was required and to carry this out.
59. The tribunal inspected on a very wet day and there was some standing water to parts of the park and surface drain provision could have been better and more effective. However, this did not appear to be a recent issue nor did any pooling appear excessive or of any significant detriment.

60. The tribunal largely accepts the evidence put forward by Mr Ryan that the view from the mobile home was previously obscured by other mobile homes. However the tribunal does accept the evidence from Miss Fry that there was an increase in noise and dust due to the significant amount of construction work going on to expand and develop the site.
61. On that basis, the Tribunal finds that, as a result of this, there has been a deterioration in the condition and a decrease in the amenity of the site.
62. Accordingly, the Tribunal finds this should be offset against the presumption of a rise on the basis of RPI and that the increase to be applied to the previous pitch fee should be only half the relevant RPI figure – which results in a revised pitch fee of **£1869.78** per annum with effect from 1 April 2019.

**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.