



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

Case Reference : **MAN/OOEM/PHI/2019/0003**

Property : **46 Bridgend Park, Brewery Road,
Wooler, NE71 6QG**

Applicant : **Wyldecrest Parks (Management) Ltd.**

Respondents : **Brian Ranft and Sandra Ranft**

Type of Application : **Application for the determination of a
new level of pitch fee under paragraph
16 of Chapter 2 of Part 1 of Schedule 1
to the Mobile Homes Act 1983**

Tribunal Members : **Judge P Forster
Mr J A Platt FRICS**

Date of Decision : **2 September 2019**

Date of revised Decision : **3 October 2019**

REVISED DECISION

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Decision

1. The notice of increase in the pitch fee dated 22 January 2019 was a valid notice.
2. The pitch fee shall be £176.83 per month from 1 March 2019.
3. No order for costs.

Background

4. The Tribunal received an application on 1 April 2019 from the Applicant, Wyldecrest Parks (Management) Ltd., to determine the pitch fee to be payable for 2018/19 by the owners of park homes at Bridgend Park, Brewery Road, Wooler, Northumberland, NE71 6QG. The application was made under paragraph 16 of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (“the Act”).
5. Bridgend Park is a residential park home site. It is a protected site within the meaning of the Act. The Applicant acquired the site from its former owner on 14 March 2014.
6. The application was opposed by the Respondents, Brian Ranft and Sandra Ranft, who are the owners of a park home on plot 46 Bridgend Park. The site agreement between the Applicant and the Respondents dated 30 March 2008 is subject to the Act.
7. Directions for the conduct of the proceedings were given on 25 April 2019. It was decided that the application would be determined without a hearing unless either of the parties requested one to be held. Neither of the parties asked for a hearing but the Respondents asked for a site inspection. The Tribunal carried out an inspection on 20 August 2019 and then met to determine the application.
8. It makes more sense of matters to set out the Respondents’ case first, followed by the Applicant’s response.

The Respondents’ Case

9. The Respondents opposed the proposed increase in the pitch fee because of “*removal, changes and omissions in the management, maintenance, upkeep and development...*” of Bridgend Park. The Respondents made three allegations:
 - i) Removal of the grassed communal area/amenity: Northumberland County Council as the relevant planning authority served an enforcement notice dated 29 March 2019 ordering Best Holdings (UK) Ltd. to remove 4 park homes and a fifth vacant pitch that had been illegally installed and to reinstate the communal lawn back to its original function and condition. “*Because of the removal of the above, this also gives and makes up a*

maintenance and upkeep cost saving of this communal lawn amenity, for the sole financial benefit the park owner. As this amenity has now been withdrawn and removed by the park owner, and until it is reinstated, if ever, they are requested to reimburse or compensate the residents in the form of the pitch fee reduction due to the removal of this amenity". The Applicants asked: "has our communal lawn amenity been removed" ?

ii) Removal of the fire points facility/services from the non-communal areas: this also *"gives and makes up a maintenance service cost saving for the yearly recertification of the non-communal fire points and extinguishers for the sole financial benefit of the park owner. This facility/service has now been withdrawn and removed by the park is requested to reimburse or compensate the residents in the form of the pitch fee reduction due to the removal of this fire protection/safety facility. The Applicants asked "are fire points a requirement on the non-communal areas of the park, i.e.; the park owners pitches on which we station our homes and pay the site owner pitch fees to do so, on a protected, licensed mobile/park home sites, in England" ?*

iii) Inadequate lighting facility/services: after a professional lighting survey was conducted that confirmed that the lighting on the park is inadequate, the site owner has failed to provide adequate lighting facilities/services on the park's roads, communal footpaths and pavements to allow the safe movement of pedestrians and vehicles around the site during the hours of darkness. The Respondents asked: *" is the lighting adequate and suitable for the elderly residents on Bridgend Park" ?*

10. The Respondents also made allegations of harassment against the Applicant, relying on correspondence between the parties. It was alleged that statements made by the Applicant contained; *"threats, half-truths and a threat of the consequences should any resident Bridgend Park there to object to the park owners management and running of the park/site".*

The Applicant's Case

11. The proposed pitch fee was calculated in accordance with the Act which presumes that the fee will increase annually by a percentage which is no more than any percentage increase in the Retail Price Index.

12. The pitch fee was £172.18 per month as agreed by the Respondents with effect from 1 March 2018. It was adjusted by an increase of 2.7% (£4.65) to £176.83 using the RPI figure for December 2018 as published in January 2019 being the latest index available before service of the Pitch Fee Review Notice on 22 January 2019 which was 28 clear days before the review date on 1 March 2019. No other increase was proposed.

13. The application to the Tribunal was necessary because the Respondents refused to agree the new pitch fee. They are the only owners to object to the increase.
14. The Applicant denied all the allegations made by the Respondents who alleged that there had been a reduction in the services and amenities available on the site. Further, in respect of the three specific allegations made by the Respondents:
 - i) Bridgend Park has planning consent to operate as a residential mobile home park with no limit on numbers and is licensed by Northumberland County Council. The planning consent was granted in 2003. When the Respondents purchased their home in 2014 there were 62 homes in situ and the park was in "*development/growth*". The latest development is on an area that was previously grassed however any use as lawn/amenity is ancillary to the primary use of the land which is as a mobile home park. There is no contractual requirement to provide any lawn/amenity area and this is simply a further "*area of development/growth*". No "*use*" of this area or loss of that use has been shown or evidence by the Respondents. The planning enforcement notice issued by Northumberland County Council on Best Holdings Ltd. was not served on the Applicant and has been appealed. Regardless, this does not affect the Respondents' agreement. The ongoing siting of mobile homes on a mobile home park cannot be considered as a reduction in amenity of the site.
 - ii) Fire safety and the provision of fire fighting equipment is covered by the Regulatory Reform (Fire Safety) Order 2005 and applies only to the communal parts of the site. Residents' homes and pitches are non-communal. There is no contractual or license requirement to provide fire points on the Respondents' pitch or on any other non-communal areas of Bridgend Park and at no time have fire points being provided in non-communal areas. Therefore, there can have been no reduction in amenity/services as alleged. A suitable and sufficient fire risk assessment has been carried out to the satisfaction of Northumberland Fire and Rescue Services who have agreed that there is no requirement to provide fire extinguishers on the roads, paths or the picnic area.
 - iii) The lighting was renewed by the Applicant in 2015. The Council has confirmed following visits to the site that they are satisfied that the lighting meets with the conditions of the site licence which require that there is sufficient light to allow the safe movement of pedestrians and vehicles during the hours of darkness. It is for the Council to determine the sufficiency of the lighting to meet with the conditions of the licence. Regardless, it is not a contractual term of the Respondents' agreement that they are provided with any specific amount of light and there is no evidence that there has been any reduction in the lighting of the site since 2015.
15. The tribunal is asked to make a determination under rule 13 (2) of the Tribunal Procedure Rules 2013 that the Respondents reimburse the fee paid by the Applicant.

16. Further, the Applicant alleges that the Respondents have acted unreasonably in their conduct of the proceedings but because it has not suffered any significant financial loss in making the application and responding to the objections it has not made an application for costs under rule 13(1).

The Law

17. The relevant law is set out in the Annex to this decision.

Discussion

18. The law governing the rights and obligations of mobile home site owners and occupiers who have bought a home and entered into an agreement with the site owner to station that home on the site, is contained in the Mobile Homes Act 1983. That Act has since been amended on a number of occasions and has to be read alongside other related statutory orders and regulations.
19. The right of the site owner to change a pitch fee is included in the implied terms set out in the relevant schedule to the Mobile Homes Act 1983 (“the Act”). By section 2(1) of the Act, the implied terms set out in the Schedule to the Act, take effect notwithstanding any express term of the agreement. Provisions relating to the review of a pitch fee are contained in paragraphs 16 to 20 of Chapter 2 of Part 1 of Schedule 1 to the Act (“the Schedule”). Paragraphs 17 to 20 were amended, as from 26 May 2013, by section 11(1) of the Mobile Homes Act 2013 (“the 2013 Act”). The amendments apply in relation to agreements made before 26 May 2013 as well as agreements made on or after that date (section 11(7) of the 2013 Act).
20. Paragraph 16 of the Schedule provides that the pitch fee can only be changed in accordance with paragraph 17, either (a) with the agreement of the occupier, or (b) if the Tribunal, on the application of the owner or the occupier, considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee.
21. Paragraph 17(2) provides that a review notice must be given at least 28 clear days before the review date and it must be accompanied by a document which complies with paragraph 25A (paragraph 17(2A)). It has not been disputed that those conditions have been satisfied.
22. The only issues for the Tribunal therefore are (a) whether it is reasonable for the pitch fee to be changed and if so (c) what the new pitch fee should be.
23. The first issue is whether it is reasonable for the fee to be changed. Paragraph 20(A1) provides that unless this would be unreasonable having regard to paragraph 18(1), there is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the retail prices index calculated by reference only to (a) the latest index, and (b) the index published for the month which was 12 months before that to which the latest index relates. Paragraph 20(A2) provides that in sub-paragraph (A1) “the latest index” in a case where the owner serves a notice under

paragraph 17(2) means the last index published before the day on which that notice was served.

24. In the present cases the date by which the owner was required to serve a notice under section 17(2) was 28 clear days before the review date of 1 March 2019. The notices were served on 22 January 2019. The pitch fee was adjusted by an increase of 2.7% or £4.65 using the RPI figure for December 2018 as published in January 2019 being the latest index available before service of the notice.
25. Paragraph 18(1) of the Schedule provides that ‘when determining the amount of the new pitch fee particular regard shall be had to—
 - (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 sub-paragraph);
 - (ab) 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);
26. The date on which the sub-paragraphs came into force was 26 May 2013.
27. The relevant principle of the Act is clear. On an annual pitch fee review the presumption is that the pitch fee will increase or decrease in line with any change in the rate of inflation over the relevant 12 month period unless the condition of the site has deteriorated or the amenity of the site (or adjoining land occupied or controlled by the site owner) has decreased since 26 May 2013. In other words, an increase would be a quid pro quo for the owner having maintained the site and level of amenity during the relevant period. Thus, a site owner cannot expect an automatic increase if the site has deteriorated or a diminution in amenity has occurred (save to the extent that any such change has already been reflected in a previous review since that 26 May 2013).

Reasons for the decision

28. The Tribunal inspected Bridgend Park on 20 August 2019. The members of the Tribunal walked round the site with the Respondent and Amanda Jones on behalf of the Applicant. The site is in a pleasant rural area, close to local amenities. The park homes are all relatively modern and well cared for each with a well-maintained garden.
29. The Respondents’ written statement dated 30 March 2008 incorporates the terms automatically implied into the agreement by the Act. The pitch fee will be reviewed on the 1st March each year.
30. No technical point was taken by the Respondents about the review date or the notice of increase served by the Applicant.

31. The Respondents' objection to the proposed pitch fee is based on paragraph 18(1), namely that there has been a decrease in the amenity of the protected site or services provided since the last review date.
32. The word 'amenity' is capable of both wide and narrow construction. When considering the amenities of a residential area, whilst these may include areas of open space, gardens or woodlands, they are not confined to these. The amenities to be provided on Bridgend Park are not defined by the site agreement between the Applicant and the Respondents. The amenities on the site are easily distinguished from the services to be provided by the Applicant. Those services are expressly identified in the site agreement and the Applicant is obliged to provide them and the Respondents to pay for them as additional charges for water, sewerage and electricity.
33. The Tribunal considered each of the Respondents' 3 complaints:
34. The grassed communal area: The land in question lies south of Brewery Road and east of the A697. It is the subject of an enforcement notice dated 29 March 2019 served by Northumberland County Council on the owners of the land, Best Holdings (UK) Ltd. and shown edged red on the plan attached to the notice. The land forms part of Bridgend Park which is leased to the Applicant. The tribunal is not concerned with the enforcement notice or any planning matters. The issue for the tribunal is whether the development of the land amounts to a decrease in the amenity of the site.
35. The Applicant submitted that Bridgend Park has planning consent to operate as a residential mobile home park. The Tribunal was not provided with a copy of the site license issued under the Caravan Sites and Control of Development Act 1960, but it would be unusual for the license not to be subject to a limited number of park homes. The Applicant's evidence was that in 2014 there were 62 homes on the site which was then under development. When the members of this tribunal inspected the site on 6 June 2017 in respect of an earlier application there were 75 plots of which 68 were occupied. All 75 plots have now been occupied and in addition five new plots have been created on the "amenity land" of which 4 are occupied by new park homes.
36. The Applicant accepted that the latest development is on an area that was previously grassed. It was submitted that any use as "*lawn/amenity is ancillary to the primary use of the land which is as a mobile home park*". The Respondents produced a number of photographs that show the land before it was cleared on about 29 November 2018. There were a number of young trees planted at the edge of the open land near to the road. There is a notice board near to the entrance of the site that displays a plan showing the position of each of the 75 occupied park homes. The area of land in question described as "*communal lawn area*".
37. Bridgend Park is a well presented and maintained site. Each of the plots is fenced and has a garden that provides the park homes with a private area to be enjoyed exclusively by the home owners. Without exception, each garden is tended to a very high standard.

38. The Tribunal found that the grassed area that has been developed by the respondents is properly identified as an amenity of the site. The land in question afforded a pleasant open area that separated the park homes from the main road. The Respondents describe the land as a communal lawn area. The development has taken place since November 2018 and after the date of the last pitch fee review on 1 March 2018. Tribunal did not accept the Applicant's submission that the land was merely ancillary to the primary use of the land as a mobile home park. The land has been developed by the Respondent for financial advantage despite it being an amenity of the site. The Applicant did not provide evidence about any use he or other residents made of the grassed area. Each home owner has their own exclusive area round their homes within their pitches to enjoy for recreational purposes.
39. Removal of the fire points facility/services from the non-communal areas: a number of fire extinguishers that were previously housed in red boxes around the site have been removed since the last pitch review that took effect on 1 March 2018. Some of the boxes have also been removed and some remain in situ. There is no contractual or statutory requirement to provide the fire points. They were not located in communal areas but rather on individual pitches. There cannot have been any reduction in amenity or services as alleged by the Applicant. There is no requirement to provide fire extinguishers on the roads, paths or other areas of the site.
40. Inadequate lighting facility/services: the lighting on the site was renewed in 2015 and has not been changed since before the pitch fee review on 1 March 2018. The evidence was that the Council accepts that the lighting meets the conditions of the site licence. The Tribunal has no jurisdiction to consider whether the Applicant is or is not in breach of the site licence. There is no express contractual requirement to provide any specific level of light.

Conclusions

41. The Tribunal was not satisfied that the Respondents' complaint about the loss of the grassed area as an amenity is sufficient to displace the presumption that the pitch fee shall increase or decrease by no more than the RPI. The amenity value of the land is de minimis. The land provided a pleasant outlook but had little practical use for the residents on the site.
42. The Tribunal did not accept the Respondents' complaints about the fire points or the lighting on the site, for the reasons already given. Any reduction in amenity or service took place before the last pitch review on 1 March 2018
43. The Tribunal determined that it would be reasonable for the presumption in paragraph 20 to apply, that the pitch fee should be increased by a percentage which is no more than any percentage increase in the Retail Price Index.
44. The Tribunal had regard to the Retail Prices Index. Under the notice of increase dated 22 January 2019 the pitch fee was increased by reference to the RPI figure for December 2018 which was 2.7%. That amounts to £4.65 per month. The

Tribunal decided that the pitch fee payable by the Respondents from 1 March 2019 should be £176.83 per month.

Costs

45. The Tribunal has jurisdiction under rule 13(1)(b) of the 2013 Procedural Rules to make an order in respect of costs if a party has acted unreasonably in bringing, defending or conducting proceedings in a residential property case which includes a case under the Mobile Homes Act 1983. The Applicant has not asked the Tribunal to make a costs order against the Respondents and none is made. In respect of the communal grassed area, the Respondents made an arguable point albeit that it was not accepted by the Tribunal. The Tribunal did not find that the Respondents' conduct of the proceedings crossed the threshold of reasonableness. Nor does the Tribunal make an order that the Respondents reimburse the fee paid by the Applicant to issue these proceedings.

Judge P. Forster

Dated 2 September 2019

Rights of Appeal

A person who wishes to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application to the First-tier Tribunal at the Regional Office, which has been dealing with the case.

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.

If the person who wishes to appeal does not comply with the 28 day time limit, that 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.

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.

Annex

Provisions relating to the review of a pitch fee are contained in paragraphs 16 to 20 of Chapter 2 of Part 1 of Schedule 1 to the 1983 Act. As far as is relevant to the issues in this case:

- 18 (1) When determining the amount of the new pitch fee particular regard shall be had to—
- (aa) 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) 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);
- 20 (A1) In the case of a protected site in England, unless this would be unreasonable having regard to paragraph 18(1), there is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the retail prices index calculated by reference only to—
- (a) the latest index, and
 - (b) the index published for the month which was 12 months before that to which the latest index relates.
- (A2) In sub-paragraph (A1), “*the latest index*”—
- (a) in a case where the owner serves a notice under paragraph 17(2), means the last index published before the day on which that notice is served;