



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

Case Reference : **BIR/00CQ/PHI/2022/0016**

Property : **53 New Green Park, Wyken Croft, Coventry,
CV2 1HS**

Applicant : **Tingdene Estates Limited**

Respondents : **Mr and Mrs Carrington**

Type of Application : **Pitch Fee Review (2022)**

Tribunal Members : **Judge T N Jackson
Mr R Cammidge FRICS**

Date and venue : **Midland Residential Property Tribunal
Paper determination**

Date of Decision : **22 November 2022**

Date Decision issued : **8 December 2022**

DECISION

© Crown Copyright 2022

We determine that the pitch fee for the Property should increase from the review date of 1 April 2022, in accordance with the Notice dated 25 February 2022, to £129.24 per month.

Reasons for decision

Introduction

1. The Respondents had signed a Written Statement in relation to the Property described above which detailed the pitch fee and contained an annual review date. The pitch fee was last reviewed on 1 April 2021. The current monthly pitch fee is £119.89.
2. By Notice dated 25 February 2022, the Applicant gave notice to the Respondents that they proposed to review the pitch fee from the review date of 1 April 2022 to £129.24 per month.
3. The proposed increase related to the increase in the RPI Index only, namely 7.8%.
4. The Respondents did not agree to the proposed pitch fee but did not make an application to the Tribunal. On 27 May 2022, the Applicant applied to the Tribunal for a determination of new level of the pitch fee in relation to the Property.
5. Directions were issued on 1 June 2022. Both parties provided written submissions which included photographic and video evidence. We were provided with a copy of the Site Licence dated 22 May 2012 and the Written Statement from when the Respondents bought the Property in 2015.

The Law

6. The relevant legislation is contained within Schedule 1 Part 1 Chapter 2 of the Mobile Homes Act 1983 (as amended). Paragraph 20 (1) provides that unless it would be unreasonable having regard to paragraph 18 (1), there is a presumption that the pitch fee will increase or decrease by a percentage which is no more than the percentage change in the RPI since the last review date.
7. Paragraph 18 (1) sets out factors to which “particular regard” must be had when determining the amount of the new pitch fee.

‘ 18 (1) 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) to (iii) not relevant.

(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 force¹ (in so far as regard has not previously been had to that deterioration or decrease for the purpose 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 force² (in so far as regard has not previously been had for the purpose of this sub-paragraph).’

8. The decisions in **Wyldecrest Parks Management Ltd v Kenyon and others [2017] UKUT 28 (LC)** and **Vyse v Wyldecrest Parks Management Ltd [2017] UKUT 24 (LC)** both refer to it being possible for us to take into account other factors which are “weighty factors”.
9. For the RPI presumption to be displaced under the provisions of paragraph 18, the other considerations must be of considerable weight. “If it were a consideration of equal weight to RPI, then applying the presumption, the scales would tip the balance in favour of RPI”³.

The Inspection/ Hearing

10. The Tribunal inspected the Property on 15 November 2022 in the presence of Mr Carrington. The Applicant did not attend.
11. The mobile home is located on the site approximately 3.5 miles to the north east of Coventry City centre. We understand from the site website that the site is approximately 10 acres and can accommodate up to 124 mobile homes. The mobile homes are serviced by the perimeter road with additional lateral roads to service of those units towards the centre of the site.
12. The Property is a typical double unit mobile home set on a broadly flat pitch with amenity areas to the rear, sides and a fore garden with driveway to the right-hand side.
13. The drive is set at a slightly lower level than the adjacent road and a fall has been built into the same to direct surface water to the surface water gully on the front right-hand corner of the mobile home. We are advised by Mr. Carrington that this gully feeds to a soakaway, although this could not be verified at the time of our inspection. There is a perforated grille surmounting the gully to stop larger debris entering the same.
14. To the left-hand side of the mobile home, at the rear, is a water butt taking surface water from the slope on this elevation. The overflow from the water butt is in the form of a hosepipe which is directed along the left-hand side of the mobile home and ultimately discharges onto the roadway.

¹ 26th May 2013

² 26th May 2013

³ Judge Robinson *Vyse v Wyldecrest Parks Management Ltd* [2017] UKUT 24 (LC)

15. At the time of our inspection, it was evident that the access road immediately in front of the Property had recently been resurfaced and finished a reasonable distance below the standard kerbing and presented a small lip to the dropped kerb. It was raining at the time of our inspection and had been raining the previous evening and there was no evidence of surface water flowing from the access road onto the driveway. Mr. Carrington confirmed that since the resurfacing had taken place, the surface water flooding, which was the cause of his concern, had abated.
16. Neither party requested a hearing and we therefore considered the matter on the basis of the written submissions.

The submissions

Respondents

17. Mr Carrington considers that the increase in pitch fee is unjust due to an ongoing issue since he had bought the mobile home in 2015 regarding rainwater running from the road onto his pitch where it pools and, due to the volume, does not soak away. Once it disperses it leaves a deposit which increases the risk of slipping. He provided photographs and a video showing the pooling. He says that it is the Applicant's responsibility to rectify the problem and refers to Conditions 25 and 27 of the Site Licence which refer to drainage and the need for roads to have adequate surface water/storm drainage to prevent standing pools of water and that there should be adequate drainage for the complete and hygienic disposal of foul/rain and surface water from the site roads and footpaths.

Applicant

18. The Applicant asserts that it does not consider the issue to be relevant to the pitch fee review. It says that there has not been a decrease in the amenity of the Park but rather an increase due to the upgrading of a number of the streetlights to LED and the installation of a new entrance path at the Park entrance with low level bollard lighting. The Applicant acknowledges that water has pooled on the plot parking bay of the Property but does not consider that it is solely due to water coming from the road. It refers to a brick being kept over the soakaway which therefore restricts the dispersal of water. It suggests that the soakaway may be silted up and need cleaning. It says that the Respondents compound the problem of water on the road by discharging a hose pipe onto the road near to their parking bay despite being requested not to do so. The Applicants says that the water from the hosepipe discharges excess water onto the road, may create a slip hazard, wash salt away when the roads are gritted and cause long term wear and tear on the road where it discharges.
19. There have been no changes to the roads, camber or kerbs since the home was installed in or around 1988 although there had been a pot hole repair done to the same height as the existing road which is 1" below the top of the edging kerb around the Respondents plot. Since the Applicant's submission, there had been recent resurfacing of the road in question which we understand took place in approximately October 2022, after the date of the Pitch Fee Review Form. The Applicant was willing to consider raising the road kerb once satisfied that the problem was not due to the Respondents failure to comply with their maintenance obligations.

Decision

20. We considered all the written, photographic and video evidence submitted.
21. During the 12- month period applicable to this review, the RPI had risen by 7.8% This is the increase which the Applicant seeks should be applied to the existing pitch fees to determine the new pitch fee.
22. For the purposes of the 1983 Act, the issue is not the actual condition of the Park, nor indeed the actual amenity of the Park. We have to consider whether there has been any **deterioration** in the condition or **decrease** in the amenity of the Park in the relevant period, and, if we do so find, whether it would thereby be unreasonable for the pitch fee to be increased on the basis of the increase in the RPI index.
23. “Amenity” in this context means the quality of being agreeable or pleasant and so we must look at any decrease in the pleasantness of the site or those features of the site which are agreeable from the occupier’s perspective.
24. We first needed to determine the ‘relevant period’. As we were not made aware of any previous regard being had to deterioration in the condition or decrease in the amenity of the Park for the purposes of a pitch fee review, we consider the relevant period to be from 26 May 2013 to 25 February 2022, the date of the Pitch Fee Review Form.
25. With the exception of the road resurfacing carried out after the Pitch Fee Review Notice and one pot hole repair referred to above, in the absence of any evidence to the contrary, we accept the Applicant’s evidence that there have been no changes to the road surface since 1988. This is consistent with the Respondents’ evidence that since their occupation in 2015 and before the Pitch Fee review Form was issued, there has been no change to the road. Mr Carrington asserts that the rainwater run off onto his Property has got worse since his occupation in 2015, but did not provide any evidence to support this assertion.
26. We find that prior to the recent road resurfacing, rainwater did run onto the Respondents’ Property from the road. However, that has been the case since at least 2015 and there is no compelling evidence that there has been any changes to the road or any measurable deterioration in the condition of the road since 2015. We therefore find that there has not been any **deterioration** in the condition or **decrease** in the amenity of the Park in the relevant period.
27. We are not satisfied that the Respondents have provided sufficient evidence to displace the presumption that the pitch fee should be increased in line with the increase in RPI index over the relevant period.
28. We therefore determine that the pitch fee for the Property should increase from the review date of 1 April 2022 in accordance with the Pitch Fee Review Form dated 25 February 2022.
29. If the Respondents have continued to pay the original pitch fee since that date, they must pay the difference to the Applicant.

30. We are not clear whether the Applicant has issued letters to the Respondents regarding arrears of pitch fees arising from the proposed increase. We confirm that the Respondents are not in arrears if they have continued to pay the pitch fee due before the service of the Pitch Fee Review Form. The difference between the current pitch fee and the reviewed pitch fee becomes payable 28 days after this decision is issued (paragraph 17 (4)(c) Part 2 of Schedule 1 of the 1983 Act).

Costs

31. Neither party applied for costs and we therefore make no order.

Appeal

32. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties and must state the grounds on which they intend to rely in the appeal.

.....

Judge T N Jackson
22.11.22