



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

**Case Reference** : **MAN/30UQ/PHI/2022/0029, 0030, and  
0032**

**Properties** : **21, 32 and 33, Acresfield Park, Garstang  
Bypass Road, Garstang, PR3 1PW**

**Applicant** : **Residential Parks Ltd.**

**Representative** : **Mr Michael Mullin instructed by Apps Legal  
Ltd.**

**Respondents** : **Mrs Josie Fishwick and Mr Malcolm  
Fishwick (1)**  
**Mr Patrick Johnston & Ms Elizabeth Bott (2)**  
**Mrs Sandra Keeling (3)**

**Type of Application** : **to determine pitch fees under paragraph 16 of  
Schedule 1 Chapter 1 to the Mobile Homes Act  
1983**

**Tribunal Members** : **Judge P Forster**  
**Mr J Faulkner FRICS**

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**DECISION**

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## **The Decision**

The pitch fee for 21, 32 and 33, Acresfield Park, Garstang Bypass Road, Garstang, PR3 1PW is increased from £232.20 per month to £246.10 per month with effect from 1 January 2022.

## **The Background**

1. There are 3 related applications under Schedule 1 of the Mobile Homes Act 1983 (“the Act”) for the Tribunal to determine the level of a new pitch fee from 1 January 2022.
2. Residential Parks Ltd. (“the Applicant”) is the owner and operator of Acresfield Park, Garstang Bypass Road, Garstang, Preston, PR3 1PW (“the Site”) which is a licenced site under the Caravan Sites and Control of Development Act 1960 and is subject to the Act.
3. Mrs Josie Fishwick and Mr Malcolm Fishwick (“the 1<sup>st</sup> Respondents”) are the owners of a park home on the Site, no. 21 Acresfield Park. Mr Patrick Johnston and Ms Elizabeth Bott (“the 2<sup>nd</sup> Respondents”) are the owners of no.32 and Mrs Sandra Keeling (“the 3<sup>rd</sup> Respondent”) is the owner of no.33.
4. The Respondents were each served with a notice dated 24 November 2021 purporting to increase the pitch fee from £232.20 per month to £246.10 per month with effect from 1 January 2022. The notices were in the prescribed form. The increase was calculated in accordance with the Retail Price Index at 6% based on the RPI for October 2021. There is no issue about the validity of the notices or the calculation of the increase.
5. The Tribunal issued Directions on 9 June 2022 providing for the parties to exchange statements of case and produce copies of the documents they wished to rely on. This was done and the Tribunal has a bundle of documents that runs to 361 pages. The hearing was held by video following an inspection of the Site. The Applicant was represented by counsel, Mr Mullin, and Mr Fishwick represented his fellow respondents.

## **The Respondents’ case**

6. The Respondents’ objection to the proposed increase in the pitch fee is based on a reduction in the amenity of the Site. They say that a part of the Site which was intended “as a substantial area of woodland recreational space” has contrary to promises made by the Applicant to the Respondents when they bought their park homes been developed into plots for ten new homes. The development started within twelve months of the previous pitch fee review. The Respondents submit that the area is significantly less agreeable and pleasant than the landscaped field containing shrubs, plants and trees that was there before development started.

## **The Applicant's Case**

7. The Applicant denies that promises were made to the Respondents about the creation of a woodland area as alleged. It says that far from causing a decrease in the amenity of the Site, the development of the landscaped field has improved the amenity as a whole. The Applicant submits that the Respondent's argument is in any event flawed because there has never been on the Site an area of woodland recreational space. Therefore, the amenity of the Site cannot have decreased as a result of there not being such a space.

## **The Law**

8. 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. The pitch fee can only be changed either with the agreement of the occupier, or by the Tribunal, on the application of the owner or the occupier. The pitch fee shall be reviewed annually as at the review date.
9. The owner serves on the occupier a written notice setting out the proposed new pitch fee. If it is agreed, the new pitch fee is payable from the review date. If it is not agreed, the owner may make an application to the Tribunal to determine the new pitch fee. Once decided, the new pitch fee is payable from the review date.
10. When determining the amount of the new pitch fee, particular regard shall be had to any sums expended by the owner since the last review date on improvements and any decrease in the amenity of the protected site since the last review date. Unless it would be unreasonable, 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.

## **The Decision**

11. The Site is a permanent residential park. Planning permission was originally granted for 43 homes but this was later extended to 53 homes. Development on the Site started in 2009 and is nearing completion. There is no dispute that the development is outside the terms of the site licence. The Site is attractive and apparently well maintained and run by the Applicant. The Respondents have no complaints in this regard. The individual homes are well cared for and the pitches looked after to a high standard.

12. Mr Fishwick on behalf of the Respondents very fairly and correctly raised a preliminary issue to be determined by the Tribunal. In his witness statement, Mr Fishwick states that he is not suggesting that there has been any loss of amenity over the previous twelve months. He states his belief that “we have been deprived of an amenity which was promised from the outset of our occupation of this park”. Therefore, the question is whether the Tribunal is limited to considering any loss of amenity in the twelve months prior to the pitch fee review. If the answer is “yes”, the Respondents accept that their case can go no further.
13. The Tribunal is concerned with the pitch fee to be paid from 1 January 2022. It must go back twelve months to establish what was previously on the Site. The area which is the subject of the dispute runs for about 130 metres to the west of the existing park homes and is about 30 metres wide. At the western end there was a pond surrounded by some trees. There was what remained of a compound that had been used for the storage of machinery and materials. This was the subject of an earlier dispute. There was then a stretch of grass that was regularly cut and kept in a tidy state. There was no recreational woodland.
14. It is not for this Tribunal to determine whether promises were made by the Applicant to the Respondents to create a recreational area. The Tribunal is only concerned with the question of any reduction in amenity and is limited to the twelve months before the pitch fee review. The Respondents are arguing for something that they never enjoyed.
15. The Tribunal observed at the site inspection that changes have been made to the land. It accepts the Applicant’s submission that these have improved the Site. A new path has been created leading to the pond which is being renovated. Parking spaces have been made for visitors to alleviate some problems on the roadway. The compound area has been removed. A new office building has been built with disabled facilities for the benefit of residents on the Site. Overall, the Tribunal finds that the amenity of the site as increased rather than decreased as claimed by the Respondents.
16. The matter ends here. There has not been a reduction in the amenity of the Site over the previous twelve months that would justify a reduction in the proposed pitch fee. It is reasonable to increase the pitch fee in line with the Retail Price Index by £13. 90 from £232.20 per month to £246.10 per month

**Judge P Forster**  
**28 November 2022**

## RIGHT OF APPEAL

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making 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 wishing 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.