



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

Case Reference : **MAN/30UF/PHI/2022/0036**

Property : **67 ASH DRIVE, LAMALEACH PARK,
FRECKLETON, PRESTON**

Applicant : **WYLDECREST PARKS (MANAGEMENT) LTD**

Respondent : **PHYLLIS PRIOR-EGERTON**

Type of Application : **Determination of new pitch fee**

Tribunal : **A M Davies, LLB
I James, MRICS**

Date of Decision : **7 October 2022**

DECISION

1. The pitch fee payable by the Respondent with effect from 1 February 2022 is £185.06 per month.

REASONS

1. On receipt of notice from the Applicant that her pitch fee was to be increased from £172.79 to £185.06 with effect from 1 February 2022, the Respondent refused to pay the increase on the ground that one of the local walks was no longer available to her. This woodland walk had been enjoyed by the Applicant and the residents of Lamaleach Park under licence from the owner of the wood, and is no longer available.
2. The reviewed pitch fee proposed by the Applicant has been calculated by reference to the RPI percentage increase in the 12 months prior to the review.

THE LAW

3. Pursuant to paragraph 17 of Chapter 2, Schedule 1 to the Mobile Homes Act 1983 (“the Implied Terms”) the Applicant claimed an increase in the pitch fee with effect from 1

February 2022. When a park resident fails to agree to an increase in pitch fee, the park owner may apply to this Tribunal for a determination as to the correct pitch fee.

4. Paragraphs 18 and 20 of the Implied Terms govern pitch fee reviews and the matters to be taken into account if a pitch fee increase is not to reflect simply any increase or decrease in the Retail Prices Index (“RPI”) since the last review. So far as relevant they read:

“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) which are for the benefit of the occupiers of mobile homes on the protected site;.....

(aa) any deterioration in the condition, and any decrease in the amenity of the site or any adjoining land since [26th May 2013] (insofar as regard has not previously been had to that deterioration or decrease for the purposes of this sub-paragraph);.....

20 (A1) 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 [RPI]”.

5. The Applicant seeks a determination as to the correct pitch fee to be paid by the Respondent. This determination is made, with the consent of the parties, on the basis of documents and written representations from the Applicant and Respondent. The Tribunal has not inspected Lamaleach Park.

THE RESPONDENT’S OBJECTION

6. The Respondent informs the Tribunal that she decided to purchase her park home at 67 Ash Drive, Lamaleach Park on the basis of a description issued by the owner of the Park. Their written description included the words:
“Lamaleach Park is spacious with plenty of recreational areas and a picturesque woodland with a stream park benches and designated bird watching area.... The park is celebrated for its open areas, the nearby woodland areas and frequented by residents for strolls, bird-watching and dog walks.”
7. The walk was available to residents of the park by virtue of a licence granted to the owner of Lamaleach Park by the owner of the woodland, believed to be BAE.
8. The Respondent says that after the Applicant purchased the park – a date is not given but this is believed to have been some 2 years ago – the walk through the neighbouring

property was allowed to become overgrown. She has provided photographs which the Tribunal has unfortunately not found helpful. She says: “Then it was shut leaving no access to it.” She has not provided the date on which she moved to Lamaleach Park, or the date on which access to the walk was blocked.

9. The Respondent considers that this loss of the licence to walk in the wood is a “*decrease in the amenity of the site or any adjoining land*” which overrides the general rule that a pitch fee may be increased annually by a percentage equivalent to the change in the Retail Prices Index.

CONCLUSION

10. The Tribunal considers that there is insufficient evidence that the licence to walk over the adjoining property was terminated by any action or omission on the part of the Applicant. Further there is no evidence as to when the woodland walk first became incapable of use or whether this has previously been taken into account in the calculation of the Respondent’s pitch fee. The Tribunal is not persuaded that it would be unreasonable, in the circumstances, to allow the usual RPI-based increase in the pitch fee.
11. The Applicant seeks an order that the Respondent reimburses the £20 application fee paid to the Tribunal. However the Tribunal finds that the Respondent’s objection to the new pitch fee was genuine although either misconceived or insufficiently supported by evidence, and makes no such order.