



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

Case Reference : **MAN/00DB/PHI/2022/0039
MAN/00DB/PHI/2022/0116**

Property : **Pitches at Oakland Hill Park, Ferrybridge**

Applicant : **Oakland Hill Park Home Estate Limited**

Respondent : **Occupiers at Oakland Hill Park, Fryston Lane,
Ferrybridge as schedule attached**

Type of Application : **Determination of new pitch fee: Mobile Homes
Act 1983 Schedule 1, chapter 2, paragraph 16**

Tribunal : **A M Davies, LLB
P Mountain**

Date of Decision : **20 March 2023**

DECISION

DECISION

1. The pitch fee payable by each of the Respondents is the reviewed pitch fee set out in the pitch fee review form served on him or her by the Applicant in 2022, and is payable from the date stated in that form.
2. Each Respondent shall pay to the Applicant the tribunal application fee of £20.

REASONS

1. In February and April 2022 the Applicant served pitch fee review forms on the Respondents, who occupy pitches on the Applicant's protected mobile home site known as Oakland Hill Park. Each pitch fee review form advised the Respondent to whom it was addressed that their pitch fee was to be increased by 7.8%, being the annual increase in the Retail Prices Index (RPI) published in February 2022.
2. The Respondents have objected to the new pitch fees.
3. The Applicant followed the correct procedure for a pitch fee review as set out at paragraph 17 of Chapter 2, Schedule 1 to the Mobile Homes Act 1983 ("the Implied Terms"), and correctly calculated the annual pitch fee increase in line with the Retail Price Index (RPI) adjustment over the previous 12 months. Two applications have been made to the Tribunal because a number of the pitch fee review notices were served late. The applications have been listed and considered together. The date on which any new pitch fee is to take effect differs: for each Respondent whose case reference number (as shown in the schedule to this decision) ends in /0039, any new pitch fee will be payable from 1 April 2022 and for each Respondent whose case reference number ends in /0116 a new pitch fee will be payable from 1 June 2022.

THE LAW

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 RPI since the last review date. 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. How the Tribunal is to determine what might constitute an “unreasonable” change in the pitch fee was considered by the Upper Tribunal in *Vyse v Wyldecrest Parks (Management) Ltd* [2017] UKUT 24 (LC). Her Honour Judge Alice Robinson stated at paragraph 23 of her judgement “The overarching consideration is whether the [Tribunal] considers it reasonable for the pitch fee to be changed; it is that condition...which must be satisfied before any increase may be made (other than one which is agreed). It follows that if there are weighty factors not referred to in paragraph 18(1) which nonetheless cause the [Tribunal] to consider it reasonable for the pitch fee to be changed, the presumption in paragraph 20(1)...may be displaced.” She continued at paragraph 50: “This [factor] must be a factor to which considerable weight attaches.... Of course, it is not possible to be prescriptive as to precisely how much weight must be attached to an “other factor” before it outweighs the presumption in favour of RPI.... What is required is that the decision maker recognises that the “other factor” must have sufficient weight to outweigh the presumption in the context of the statutory scheme as a whole.”
6. The Applicant seeks a determination as to the correct pitch fee to be paid by each of the Respondents. With the consent of the parties the Tribunal has made this determination on the basis of papers submitted. Both Tribunal members have visited Oakland Hill Park in the past but no visit has been made on this occasion.

RESPONDENTS’ OBJECTIONS

7. The Respondents have supplied a Statement of Response (to the Applicant’s Case Summary dated 5 October 2022) dated 17 January 2023 supported by documents referred to in it. The Statement of Response was drafted by Mr Ibraheem Dulmeer of counsel under a direct public access arrangement. Unfortunately counsel has not been provided with the correct information, in that the Statement claims “the issues raised in these submissions have not been raised since 26 May 2013”. In fact all the issues raised by the Respondents, with the exception of the mirror and light at the gate and the new security cameras, have been addressed in previous decisions of the tribunal. The Respondents currently allege that there has been a reduction in grounds maintenance since August 2021.
8. The Tribunal finds that the odours from the sewage treatment plant is an issue that has been raised and determined in various applications since 2014 and does not constitute any deterioration in the site which could affect the pitch fee payable in the year ending 31 March 2023.
9. The Respondents have also cited, as grounds for setting aside the presumption in favour of an annual RPI increase, the locking of gates other than the entrance gates, poor upkeep of the grounds and roadways, the removal of plant pots and statuary near the park entrance, the removal of a seat from a communal garden area, the removal of a wall light and a visibility mirror at the park entrance and the erection of new security cameras on tall poles. They also say that there is no emergency telephone number to enable them to report difficulties on the park,

that grit boxes near the entrance to the park have been removed, and that the gates are not closed until 11pm which they feel is a security risk. The Tribunal has been provided with undated photographs showing the area around the park entrance, patch repairs to the roads, leaves on the road near one of the unused gateways, and the new tall poles on which security cameras are situated.

10. Most of the Respondents have submitted individual observations in addition to their shared statement. Some have indicated a concern about lack of privacy as a result of the cameras installed in August 2021 which they say can be rotated to point into private property, although the Tribunal has seen no evidence of this. Mrs Mannering says in her statement that the masts are considerably higher than the previous CCTV masts and can be directed so as to film private property. She is concerned that the Applicant “can check on residents’ daily lives”, and “is listening to and recording the actions of residents remotely”. There is no evidence of any such misuse of the cameras, nor any suggestion as to why the Applicant might wish to use them in this way. Mrs Southall (owner of the Applicant company) informs the Tribunal that the previous CCTV system had not worked for some time. It was replaced at the Applicant’s expense following a request by the Residents Association. As the Southalls no longer live at the park and in view of the Respondents’ repeated concerns about security, the Tribunal considers the new cameras to be an improvement rather than a deterioration in amenity.
11. Several of the Respondents are concerned about lack of security on the park due to the main gates not being closed until 11 pm. In contrast some Respondents complain that one of the alternative gates to the park (which might allow for unauthorised entry if not locked) were padlocked in 2019 and are now blocked by undergrowth. In response Mrs Southall says that there has only ever been one gate in use at the park for entry and exit, the other three gates leading to private land where there is no right of way. She explains that the gate giving access to adjacent land owned by the Applicant has been locked due to vandalism but can still be opened by staff in the event of an emergency.
12. There is a repeated allegation that the condition of the park has deteriorated since Mrs Southall and her family moved away in August 2021, although limited details have been provided. The Tribunal has not seen any evidence that the park has become “unkept” since August 2021 as claimed by Mrs Mannering, whose evidence was adopted by the other Respondents. There is no evidence of the lack of weeding that Mrs Mannering mentions, and the Tribunal has not been provided with photographic evidence that the park roads are subject to “extreme weathering that makes driving tricky and ... dangerous to walk on due to uneven surfaces and loose gravel”.
13. Regarding the entrance to the park, there are also complaints that the statuary, bench and pots that were in place were removed in August 2021.

THE APPLICANT’S RESPONSE

14. Mrs Southall flatly denies that the amenities of the park or the level of services provided have deteriorated. She has produced dated photographs which appear to show that grit boxes, entrance lights, entrance mirror and a notice board with emergency telephone numbers have been in place since August 2021. She has also

produced to the Tribunal invoices demonstrating that tree maintenance, road clearing and necessary repairs are carried out as required. She claims that the pots and statuary near the entrance were removed at the request of the Residents Association. She further tells the Tribunal that the entrance gates have operated on the same opening and closing times since 2019, the closing time having been put back to 11 pm to allow for exit by late delivery drivers.

CONCLUSIONS

15. The Respondents continue to show animosity towards the Southall family as noted in previous decisions of the Tribunal. The Tribunal has seen no evidence that amenities the park or its surroundings have deteriorated to any appreciable extent since April 2021, ie in the year prior to the pitch fee review under discussion. The erection of replacement security camera poles is not considered to be a deterioration in the park, and neither is the removal of plants and statuary from near the entrance, nor the loss of a bench which Mrs Southall explains was removed by a resident when he left the park, as it belonged to him. No deterioration in services has been proved by the Respondents.
16. It follows that there are no “weighty factors” which displace the Applicant’s statutory entitlement to an RPI related increase in the pitch fees as set out in its Pitch Fee Review Forms supplied to the Respondents.
17. The Applicant has asked the Tribunal to make a costs order. The Tribunal is not aware that any costs have been expended by the Applicant. However the application fees have amounted to £1140. In view of the findings of the Tribunal and the extent to which the Respondents have raised issues previously determined by the Tribunal, each Respondent is ordered to reimburse the £20 fee to the Applicant.

AM Davies
Tribunal Judge
20 March 2023

SCHEDULE

Case Ref MAN/ooDB/ PHI/2022	Respondent	Property	Reviewed pitch fee £
/0116	Mr and Mrs P Jefferson	2 Oakwood Close	160.66
/0116	Mr T O'Brian	5 Oakwood Close	160.66
/0116	Mr P Johnson	10 Oakwood Close	159.98
/0116	Mr & Mrs E Perry	11 Oakwood Close	160.66
/0116	Mr & Mrs D Box	17 Beech View	131.88
/0116	Mr & Mrs Woods	19 Beech View	160.66
/0116	Mrs J Hughes	20 Beech View	156.30
/0116	Mr R Cope	26 Beech View	160.66
/0116	Mr & Mrs E Hibbert	27 Beech View	160.66
/0116	Mr J Buckton & Ms J Greatbatch	29 Beech View	160.66
/0116	Mr & Mrs T Lewis	30 Beech View	160.66
/0116	Mr & Mrs J Wright	31 Beech View	156.30
/0116	Mr & Mrs P Crosby	33 Beech View	156.30
/0116	Mrs M Jowett	34 Beech View	160.66
/0039	Mr & Mrs B Beardsley	37 Beech View	162.91
/0116	Mr & Mrs B Whiteley	42 Ashtree Way	160.66
/0116	Mr Bolam	48 Ashtree Way	165.44
/0039	Mr & Mrs Movely	49 Ashtree Way	162.88
/0116	Mr & Mrs Morton	51 Ashtree Way	156.19
/0116	Mr & Mrs T Ogley	52 Ashtree Way	156.30
/0116	Mr & Mrs J Mannering	53 Willow Lane	156.30
/0116	Mr K Smith	55 Ashtree Way	156.30
/0116	Mr M Chambers	56 Ashtree Way	203.42
/0116	Mrs A Long	60 Ashtree Way	160.66
/0116	Mr P Coventry & Ms A Hunt	62 Ashtree Way	160.66
/0116	Mr & Mrs K Taylor	64 Ashtree Way	160.66
/0116	Mr & Mrs J Lumb	65 Ashtree Way	160.66
/0116	Mrs V Dale	69 Ashtree Way	156.30
/0116	Mr & Mrs J Child	71 Willow Lane	156.30

SCHEDULE (continued)

Case Ref MAN/ooDB/ PHI/2022	Respondent	Property	Reviewed pitch fee £
/0116	Mr & Mrs R Redden	73 Willow Lane	160.66
/0116	Mrs S Sanderson	74 Willow Lane	162.83
/0116	Mr S Carroll	85 Willow Lane	162.91
/0116	Mr & Mrs R Ayres	86 Willow Lane	156.30
/0116	Mrs C Rodgers	87 Willow Lane	159.98
/0116	Mr & Mrs F Wright	92 Willow Lane	150.38
/0116	Mr & Mrs R Bage	93 Willow Lane	156.30
/0039	Mr & Mrs R Allen	3 Oakwood Close	143.32
/0039	Mr & Mrs N Firth	6 Ashtree Way	162.91
/0039	Mr & Mrs Manby	7 Ashtree Way	210.95
/0039	Mr & Mrs Bradbury	12 Oakwood Close	162.91
/0039	Mr & Mrs R Whitehead	15 Oakwood Close	163.30
/0039	Mr & Mrs G Pacey	16 Oakwood Close	156.43
/0039	Mr & Mrs Willows	18 Beech View	237.86
/0039	Mr & Mrs H Smith	32 Beech View	162.91
/0039	Mr & Mrs S Lewis	43 Ashtree Way	158.49
/0039	Mr & Mrs Hirst	45 Ashtree Way	158.49
/0039	Mr & Mrs Cunnington	46 Ashtree Way	165.44
/0039	Mr & Mrs G Barker	47 Ashtree Way	162.91
/0039	Mr D Bolam	48 Ashtree Way	165.44
/0039	Mr & Mrs A Briggs	54 Willow Lane	162.91
/0039	Mr & Mrs J Curtis	68 Ashtree Way	162.91
/0039	Mrs J Dennis	76 Willow Lane	162.91
/0039	Mr G Wright	58 Ashtree Way	237.16
/0039	Mr & Mrs C Wilson	78 Willow Lane	162.91
/0039	Mrs A Swain	81 Willow Lane	163.34
/0039	Mr & Mrs Wormold	84 Willow Lane	162.91
/0039	Mr D Stewart & Mrs S Daynes	91 Willow Lane	162.91