



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

- Case Reference** : CHI/40UE/PHI/2022/0131
CHI/40UE/PHI/2022/0132
CHI/40UE/PHI/2022/0133
CHI/40UE/PHI/2022/0134
CHI/40UE/PHI/2022/0135
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CHI/40UE/PHI/2022/0137
CHI/40UE/PHI/2022/0138
CHI/40UE/PHI/2022/0139
CHI/40UE/PHI/2022/0140
CHI/40UE/PHI/2022/0141
- Property** : 2, 3, 4, 5, 9, 10, 11, 16, 17, 19 & 21
Broughton Park, Broughton Lane,
Shoreditch, Taunton Somerset TA3 7BJ
- Applicant** : Sovereign Park Home Estates
- Respondent** : Mrs Martin (2)
Mr Lund (3)
Mrs Hartley (4)
Mr & Mrs Rose (5)
Mrs Stafford (9)
Mr & Mrs Garner (10)
Mrs Bouchier (11)
Mr & Mrs Maddock (16)
Mr Hall (17)
Mr & Mrs Ingram (19)
Mr & Mrs Stout (21)
- Representative** : Andrea Stout
- Type of Application** : Review of Pitch Fee: Mobile Homes Act
1983
- Tribunal members** : Judge David Clarke
Michael Ayres FRICS

DETERMINATION AND STATEMENT OF REASONS

Determination

In the light of the factors to which the Tribunal is required to have particular regard, the Tribunal determines that the level of the pitch fee should remain unchanged in the current period and no increase is to be permitted.

Statement of Reasons

Background to the Applications

1. These eleven conjoined applications (“the Applications”) are made by Sovereign Park Home Estates (“the Site Owner”) of Pure Offices, Kestrel Court, Harbour Road, Portishead Bristol, BS20 7AN. The company owns the mobile home site known as Broughton Park, Broughton Lane, Shoreditch, Taunton Somerset TA3 7BJ (“the Site”). The Respondents are the residents, respectively, of eleven mobile homes on the Site. Their names and numbers of their homes are listed on the front sheet. They are all represented by Andrea Stout who is resident with her husband in number 21. Each of the Applications is in identical form and is by the Site Owner for a determination of a new level of pitch fee under paragraph 16 of Schedule 1 of Chapter 2 of Part 1 to the Mobile Homes Act 1983, as subsequently amended (“the 1983 Act”). The Applications were made on 22 November 2022.

2. On 2 February 2023 the Tribunal directed that the application be dealt with on the papers, the Site Owner having indicated in the Applications that it was content with such a determination. Neither party requested an oral hearing. On 23 March 2023, Directions were issued relating to the preparation of the bundle of documents. The Site Owner submitted the hearing bundle and on 27 April 2023 the Tribunal decided that the application remained suitable to be dealt with on the papers but indicated that if the Tribunal determining the case considered that a visit to the Site would be of assistance, such a visit would be unaccompanied.

3. On 11 May, the Tribunal met to consider the case on the papers submitted by the parties. It decided after a full review of the bundle of documents that a visit and inspection of the Site would assist in its determination and the visit took place on 25 May 2023.

The Submissions of the Site Owner

4. The Site Owner served all the occupiers of the Site with Pitch Fee Review Notices dated 18 August 2022. The increase in the pitch fees was calculated by reference to the Retail Prices Index (RPI) which was issued for July 2022 which indicated an annual

increase of 12.3%. There is no issue raised either as to the validity of the Notices or to the validity of the calculation of the amount of the increase.

5. Callum Self, on behalf of the Site Owner, submitted in his letter that they did not consider that there was any good reason for the residents to withhold the increase in the pitch fee contending that the park had been well maintained and improvements had been made. He listed the monthly maintenance schedule, which included ‘filling in potholes’ and ‘rod drains if blocked’. He listed three ‘improvements’ over the past year, namely painting of the entrance wall, renewing a walkway between Nos 5 and 7 and installing a new traffic mirror at the park entrance to help when resident’s cars left the park.

The Submissions of the Respondents

6. These are made by Andrea Stout on behalf of all the Respondents. She indicates that the withholding of the pitch fee increase is a ‘last resort’ because no action had been taken by the site owner in response to concerns. These concerns are as follows:

1. The road around the site has not been maintained and needs resurfacing. The requests for work to be done have been declined and the Site Owner has only filled in the worst potholes by loosely filling and tapping down with tarmac. A request for complete resurfacing was made on 8 August 2020 on the basis that the road surface was breaking up, was powdery in some areas and posed a possible trip hazard. The response on 17 August 2020 was that this would only be actioned if the total costs were spread across the pitch fees and borne by the residents. A further request was made in 2021 but did not elucidate a response. Andrea Stout also says that water seeps into the broken and uneven surface posing a risk in winter from the water freezing and creating a sheet of ice. The Respondents maintain that they should not have to pay the costs of resurfacing as maintenance of the roadway is the Site Owner’s responsibility.
2. Residents complain about the state of the sewerage drains, stating that they get noxious fumes and flow back into their toilets. The Site Owner states that this is the responsibility of Wessex Water, but the Respondents submitted as evidence a letter from Wessex Water dated 23 March 2023 stating that the maintenance and repair of sewers and drains on the site are the responsibility of the owner.
3. The soak away drains are a concern. Evidence in correspondence submitted shows that one such soak away was blocked but instead of actioning repair the Site Owner decided to block up the drain.
4. The site had, for many years, the amenity of a regular shopper’s bus from the site. This was discontinued in November 2019. A rock salt bin for use in icy conditions has been taken away. No reduction in the pitch fee was offered in either case.

The Response of the Site Owner

7. The response by Callum Self to the Respondent’s submissions was very brief. He confirmed the shopper’s bus had been discontinued but said that this was because of lack of use and did not occur in the present review period. He acknowledged that the Site Owner had to maintain the roads and ‘we do, with regular maintenance’. With regard to the issue of the drains, ‘Sovereign did not report this because you pay your

water charges direct to Wessex Water and when I spoke to the gentleman who attended he confirmed that this was the correct protocol’.

Inspection of the Site

8. Broughton Park is a small site of 21 homes in an attractive rural location. On all three sides of the triangular site there are views over fields and the countryside. It is quite compact, but all the homes have a been given a very substantial degree of permanence by their residents and both the homes and the gardens give the appearance of being maintained with pride.

9. There is relatively little space used in common on the Site so that apart from the boundary hedges and fences and the access roads, and a few paths, most of the site is occupied by the 21 pitches. The observations of the Tribunal on inspection were as follows.

1. *Roads.* The short main access road, at the base of the ‘triangle’ of the site, is in good condition. However, the photographs supplied with the bundle were all taken of the one-way road through the rest of the site which gives vehicular access to most of the pitches. The Tribunal found a road surface that has obviously deteriorated over many years and was at the end of its useful life. In places the surface was rough and uneven with crazing and cracking; in others it was breaking up completely into stones and bits of broken surface. Recent attempts had been made to cover over some small areas, which the Tribunal took to be former potholes filled in, a matter mentioned by both the Site Owner and the Respondents. There was also evidence of older piecemeal maintenance.
2. *Drains and Sewers.* There was no evidence of problems from what could be seen, but this was to be expected when the inspection was unaccompanied.
3. *Soakaways.* The covers of a few soakaways in the roadway showed some signs of weakness or were ill-fitting. The inspection was on a fine dry day but the paucity of soakaways to drain the road may cause problems in heavy rain.
4. *Bus service.* The Tribunal noticed the rural location of the Site, described above, with the public road being a very narrow lane which is not conducive to safe pedestrian access to and from the Site.

Factors relevant to the determination of the Pitch Fee

10. The Tribunal is required to determine the amount of the pitch fee in accordance with the provisions of the 1983 Act, as amended. Paragraph 18 of Part 1, Chapter 2, Schedule 1 of the 1983 Act requires a tribunal to pay particular regard to a number of matters. The relevance of each of these matters is considered in turn.

11. The first such matter is any sums expended by the owner on improvements since the last review date. Callum Self listed three ‘improvements’ over the past year, stated to be painting of the entrance wall, renewing a walkway between Nos 5 and 7 and installing a new traffic mirror at the park entrance to help when leaving the park. The Tribunal cannot take any of these matters into account. Not only are the first two matters clearly issues of repair or maintenance, not improvements (and the third might be if the ‘new’ mirror was a replacement), but improvements can only be taken into account if they

have been the subject of a consultation with the site occupiers in advance (see paragraphs 18 (a) and 22(c) of Part 1, Chapter 2, Schedule 1 of the 1983 Act. There is no suggestion that such a consultation took place.

12. Paragraph 18 (1) (aa) of Part 1, Chapter 2, Schedule 1 of the 1983 Act is the most relevant matter applicable to the concerns of the Respondents. It reads as follows:

‘(A)ny 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).

In the view of the Tribunal, the condition of the one-way road around the site has clearly deteriorated very significantly over many years (the copy Agreements of the eleven Respondents provided to the Tribunal date from 1986) and has now reached the stage when complete resurfacing of the roadway is the only way to provide for safe and proper access to the pitches and to restore the condition of the road surface. The evidence before the Tribunal shows that the residents have been complaining about the state of the road surface for some years but the Site Owner, while in the papers acknowledging its responsibility, has not only taken no steps to make a proper repair to the road surface but has indicated that it will not do so unless the residents agree to pay for the cost.

13. If there are problems with the sewers on the Site providing a link to the public sewers of Wessex Water, then any responsibility to repair and restore the ‘amenity’ lies with the Site Owner. However, the Site Owner has sought to pass its responsibility to Wessex Water when it is clear to the Tribunal that any sewers within the Site are private sewers and the responsibility of the Site Owner.

14. Similarly, any issues with soakaways and drainage from the roadways are equally the responsibility of the Site Owner. The Tribunal notes that when a problem was identified, the Site Owner chose to block off the soakaway that was not working rather than effect a repair.

15. Finally, paragraph 18 (1) (ab) of Part 1, Chapter 2, Schedule 1 of the 1983 Act provides that the Tribunal shall have particular regard to any reduction in the services that the owner supplies to the Site. This applies to any such reduction since the date that that provision came into force (which was before the bus service was discontinued in 2019). The submission of the Site Owner, therefore, that the service was discontinued before the current year and so is inapplicable is not correct.

Determination

16. In the light of the factors to which the Tribunal is required to have particular regard, the Tribunal determines that the level of the pitch fee should remain unchanged in the current period and no increase is to be permitted.

17. The Tribunal makes that decision for the following reasons. The most significant is the condition of the roadway. This requires complete resurfacing. Maintenance of the roadway currently involves ad hoc repairs to the road surface such as filling of potholes. There is evidence of significant crazing and cracking which indicates a partial or total

failure of the road surface. The continuous patching of localised defects is not sustainable and will no longer prevent further significant deterioration and therefore a complete resurface needs to be undertaken as soon as possible. The attitude of the Site Owner has been to acknowledge that work is required but remains unwilling to do any major work unless the residents are prepared to pay the full cost of the work. If the Site Owner had responded to the Respondent's concerns with an acknowledgement of its full responsibility and presented a plan and timetable for work to be done, then it may have been possible to agree for a partial increase in the pitch fee until the work was complete. However, that is not the case. It is therefore appropriate for there to be no increase in the pitch fee until the Site Owner accepts its responsibilities in this regard and remedial work to the road is undertaken.

18. If the only complaint of the Respondents related to the state of the sewerage drains, and the occurrence of noxious fumes and flow back into their toilets, then the Tribunal would have been unable to deny an increase in the pitch fee on that ground alone. That is because the Respondents merely stated in Andrea Stout's written submission that there was or had been such a problem. Apart from that statement, they did not provide any or sufficient evidence relating to that matter. Thus, there was no indication as to which pitches were affected, or details of when and in what circumstances the problems arose. Statements from the residents impacted providing such details would be needed. This would permit the Site Owner to be able to respond. However, the Site Owner cannot simply disclaim responsibility for any such future incidents. The condition of the private sewers under the Site is its responsibility and problems with flow back to toilets on a site are very serious and must be attended to promptly.

19. The soakaways do need some attention and the unwillingness of the Site Owner to accept its responsibility in that regard is a matter to which the Tribunal also has regard.

20. The withdrawal of the bus service is quite clearly a reduction in the services that the owner supplies. It may be that, with prior consultation and discussion before the service was withdrawn, an agreement could have been reached with residents, or a majority of them, that the service was no longer required. But to withdraw the service without such consultation means that it is also a factor in the Tribunal's decision.

21. The Site Owner asked for a refund of the application fees paid in each case of £20. In view of the decision of the Tribunal, such a refund is inappropriate.

Right of Appeal

22. 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 (RPSouthern@justice.gov.uk). 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.

23. If the person wishing to appeal does not comply with the 28-day time limit, the 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.

24. 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 that the party who is making the application for permission to appeal is seeking.

31 May 2023