



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

Case reference : **CAM/22UE/PHI/2023/0010,12,15,16,17 and 18.**

Property : **Sandy Bay, Thorney Bay Park, Thorney Bay Road, Canvey Island, Essex, SS80DB.**

Applicant : **Thorney Bay Park Limited.**

Representative : **Mr Canham.**
Mr and Mrs Williamson
Ms Oughton

Respondents : **Ms Humphries**
Mr and Mrs Meehan
Ms Clues
Ms Millhouse

Representative : **Mr Wakeling**

Pitch fee Tribunal : **Tribunal Judge Shepherd**
Gerard Smith MRICS FAAV

Date of Decision : **30th November 2023.**

1. This case dealt with a challenge to the pitch fee increase sought by the site owners of a mobile home park on Canvey Island. The site is called Thorney Bay Park. The owners Thorney Bay Park Limited, had applied to the Tribunal because some of the occupiers disagreed with their proposed pitch fee increase.

The pitch fee increase of 6% was due to start on 1st November 2022. The owner's application was dated 30th January 2023. On 19th October 2023 the Tribunal inspected the site and then conducted a hearing.

2. The site is well presented with 320 mobile homes which house approximately 650 people. It covers a significant area. The mobile homes are flanked with artificial grass. There are also communal natural grassed areas, shrubs and trees. These appeared reasonably maintained although we were told by Mr Wakeling on behalf of the occupants that works had been carried out in anticipation of the Tribunal hearing. We were shown photographs which showed the green areas looking less well maintained but the Tribunal's overall impression was that the site was well managed. There was an outside swimming pool which is heated and lies adjacent to the site club where there is a bar, restaurant and social area. One of the complaints from the occupants was that the bar/restaurant was simply too small for the number of occupants.
3. The residents had been promised that the site would be developed in the future. We were shown a brochure showing the proposed developments which included a bigger restaurant, a leisure complex, a gym and indoor swimming pool. Some occupiers had moved onto the site lured by these promised developments. The developments had not started when the Tribunal inspected but Mr Canham who represented the park owner, confirmed his belief that they were still planned. We explained to the occupiers at the outset that the perceived failure by the site owner to carry out these improvements did not affect our analysis of the pitch fee increase. Our jurisdiction was limited (see below). We were shown correspondence from Lee Skinner on behalf of the site owner which dealt with charging once the works were carried out and other documents none of which were relevant to the decision we were making.
4. The Applicants, Mr and Mrs Meehan (14 Wave Road), Jenny Humphries (14 Sand Bank Road), Gillian Clues (17 Bay Beach Road) and Barbara Millhouse (23 Jack King Drive) were represented by Mr Wakeling who lives at 3 Bayside. Carl Canham represented the park owner, Thorney Bay Park Limited. Previously they had used Royal Life as managing agents. Mr Canham said that the pitch fees were increased by the RPI figure annually although in the present increase they were seeking less than the RPI figure, namely 6 %. He said that costs had increased across the board, including the cost of wages and supplies. He accepted that there had been no improvements and that the increase was solely based on the RPI. He did not accept that there had been any decrease in amenity. He said the gardeners visited the site five times a week. There were onsite staff engaged on the site all week. In total there were 15-20 staff carrying out a number of duties including gardening, maintenance, bar staff, the swimming pool and security.

5. Mr Wakeling said that occupiers on the site felt ignored. He said that staff were not all engaged in work in their part of the park and he disputed Mr Canham's evidence that the staff were on site every day. He said that priority was given to the occupants in the new part of the site. He pointed out areas in which the roads had not been completed. He said that the site had increased in size but there had not been an increase in facilities. There were 343 occupants at the end of phase 2. There had been a reduction in waste collection from 3 times a week to 2 times a week. The use of the swimming pool had been restricted based on the availability of life - guards. The children's area at the pool had been closed. The pool itself had been closed during the summer months when works were being carried out.
6. Mr Wakeling said that in the occupants' view the services had deteriorated. The pathways and roads were not swept regularly. There was also a deterioration in security. There was nobody in attendance in the early hours. There was previously a service for taking elderly and disabled to the club in a buggy. This was no longer available. The occupants also said that the site owner had reduced the number of available parking spaces from three to two. The site rules confirmed this to be the case.
7. Mr Canham did not disagree with the claims regarding the reduction of the waste collection services, the loss of the children's paddling area.

The Tribunal's jurisdiction

8. The Mobile Homes Act 1983 dictates the Tribunal's jurisdiction in this case:

Under Schedule 1 of the Mobile Homes Act 1983:

16.

The pitch fee can only be changed in accordance with paragraph 17, either—

(a) with the agreement of the occupier, or

(b) if the [appropriate judicial body, on the application of the owner or the occupier, considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee.

17.—

(1) The pitch fee shall be reviewed annually as at the review date.

(2) At least 28 clear days before the review date the owner shall serve on the occupier a written notice setting out his proposals in respect of the new pitch fee.

(2A) In the case of a protected site in England, a notice under subparagraph (2) which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 25A.

(3) If the occupier agrees to the proposed new pitch fee, it shall be payable as from the review date.

(4) If the occupier does not agree to the proposed new pitch fee—

(a) the owner or (in the case of a protected site in England) the occupier may apply to the appropriate judicial body for an order under paragraph 16(b) determining the amount of the new pitch fee;.....

(8) If the occupier has not agreed to the proposed pitch fee—

(a) the owner or (in the case of a protected site in England) the occupier may apply to the appropriate judicial body for an order under paragraph 16(b) determining the amount of the new pitch fee;

(b) the occupier shall continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by the appropriate judicial body under paragraph 16(b); and

(c) if the appropriate judicial body makes such an order, the new pitch fee shall be payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (6)(b).

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;

(ii) which were the subject of consultation in accordance with paragraph 22(e) and (f) below; and

(iii) to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the appropriate judicial body, on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;

(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 force (in so far as regard has not previously been had to that deterioration or decrease for the purposes of this subparagraph);

(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 force (in so far as regard has not previously been had to that reduction or deterioration for the purposes of this subparagraph);

.....

(A1) In the case of a protected site in England, 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 consumer prices index calculated by reference only to—

(a) the latest index, and

(b) the index published for the month which was 12 months before that to which the latest index relates.

(A2) In sub-paragraph (A1), “the latest index” —

(a) in a case where the owner serves a notice under paragraph 17(2), means the last index published before the day on which that notice is served;

(b) in a case where the owner serves a notice under paragraph 17(6), means the last index published before the day by which the owner was required to serve a notice under paragraph 17(2).....

Determination

9. Applying the criteria detailed above the Tribunal considers that there has been a deterioration in the condition, and the amenity, of the site and a reduction in the services that the owner supplies to the site and the quality of those services although it is clear that the site owners have not sought the full RPI increase. This deterioration has been caused by the increase in the number of residents on the site without any improvement in services. The need for such improvement has been accepted by the site owners as evidenced by the expansive plans for upgrade. Many of the residents have a genuine grievance that these plans have not come to fruition and have witnessed the occupancy on the site increasing without the improvements taking place. This is illustrated most starkly by the inadequate facilities provided by the bar/restaurant. In addition, the swimming pool has been closed during the summer months when

works really should have been carried out in the winter. The abandonment of the free (golf buggy) taxi service to the club, the reduction in waste collection from 3 times a week to 2 is merely a further illustration of a deterioration in amenity caused by a lack of staff availability. We also consider that the visible security on site has diminished. In addition, for some unexplained reason occupants had been told that they can only park two cars on site when the rules make clear that the limit is three.

10. Taking all of these factors into account and doing the best we can we consider that the pitch fee increase should be reduced to 4%. The site owner will need to calculate the appropriate sums due and notify the occupiers accordingly. The 4% increase takes effect 28 days after the challenged pitch fee notice was served.

Judge Shepherd

30th November 2023

RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the

First-Tier Tribunal at the Regional office which has been dealing with the case.

2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.