



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

- Case Reference & Property** : CHI/24UC/PHI/2023/0229  
8 Laburnum Drive  
CHI/24UC/PHI/2023/0230  
10 Laburnum Drive  
CHI/24UC/PHI/2023/0231  
15 Laburnum Drive  
CHI/24UC/PHI/2023/0236  
2 Cherry Blossom Drive  
CHI/24UC/PHI/2023/0238  
17 Cherry Blossom Drive
- Oakwood Court, Borden, Hampshire GU35  
9HX
- Applicant** : Bordon Park Limited
- Representative** : IBB Law LLP  
[john.clement@ibblaw.co.uk](mailto:john.clement@ibblaw.co.uk)
- Respondents** : Mr Terry Duffield & and Mrs Jennifer Duffield  
8 Laburnum Drive  
Mrs Yvonne Coogan & Mr Anthony Coogan  
10 Laburnum Drive  
Mrs Sally Bell  
15 Laburnum Drive  
Mr Tapp  
2 Cherry Blossom Drive  
Mr Christopher Tweed  
17 Cherry Blossom drive.
- Representative** : -
- Type of Application** : Review of Pitch Fee: Mobile Homes Act 1983  
(as amended)  
W H Gater FRICS
- Tribunal members** : Regional Surveyor (Chair)  
Mr E Shaylor MCIEH  
Mr C Davies FRICS

**Date of Decision** : 21 December 2023

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## DECISION

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### Summary of Decision

**The Tribunal determines pitch fees of £266.23 per month for 8, 10 and 15 Laburnum Drive and 2 Cherry Blossom Drive and £256.00 per month for 17 Cherry Blossom Drive all with effect from 1 January 2023.**

### Background

1. In an application made 31 March 2023 the Applicant site owner sought a determination of the pitch fees of the subject properties as set out below payable by the various Respondents from 1 January 2023.
2. A Pitch Fee Review Notice dated 1 December 2022, with the prescribed form, was served on the occupier proposing to increase the pitch fee by an amount which the site owner says represents an adjustment in line with the Retail Prices Index (“RPI”).
3. The proposed fees were:  
  
**2 Cherry Blossom Drive and 8, 10 & 15 Laburnum Drive** Increase of 14.2% from £242.03 per month to £276.40 with effect from 1 January 2023.  
  
**17 Cherry Blossom Drive** Increase of 14.2% from £232.72 per month to £265.77 with effect from 1 January 2023.
4. Directions were issued on 21 September 2023 setting a timetable for the exchange of documents in order for the applications to be determined on the papers, unless any objections were received from the Respondents.
5. The Tribunal received objections from the Respondents listed above.
6. On 3 November 2023 the Tribunal gave further directions for a hearing to take place on 20 November 2023.

7. Oakwood Court is a protected site within the meaning of the Mobile Homes Act 1983 (“the 1983 Act”). The definition of a protected site in Part 1 of the Caravan Sites Act 1968 includes a site where a licence would be required under the Caravan Sites and Control of Development Act 1960 if the exemption of local authority sites were omitted.
8. The Respondents rights to station their mobile homes on the pitch are governed by the terms of their Written Agreement with the Applicant and the provisions of the 1983 Act. A sample copy of the Agreement has been supplied.
9. The Applicant served the Respondents with the prescribed form proposing the new pitch fee on 1 December 2022, which was more than 28 days prior to the review date of 1 January 2023. The Application to the Tribunal to determine the pitch fee was made on 31 March 2023 which was within the period starting 28 days to three months after the review date. The form indicated that the Applicant had applied the RPI of 14.2 percent applying the figure published for the 12 months to October 2022.
10. The Tribunal is satisfied that the Applicant has complied with the procedural requirements of paragraph 17 of Part 1 of Schedule 1 of the 1983 Act to support an application for an increase in pitch fee in respect of the pitch occupied by the Respondent.

### **The Law**

11. The Tribunal is required to determine whether the proposed *increase* in pitch fees is reasonable. The Tribunal is not deciding whether the overall level of pitch fee is reasonable.
12. The Tribunal is required to have regard to paragraphs 18, 19 and 20 of Part 1 of Schedule 1 of the 1983 Act when determining a new pitch fee. Paragraph 20(1) introduces a presumption that the pitch fee shall increase by a percentage which is no more than any percentage increase or decrease in the RPI since the last review date and applies unless factors identified in paragraph 18 are demonstrated so that presumption does not apply. If the presumption does apply, it may be rebutted but only by other factors which are sufficiently weighty to do so.
13. See the Upper Tribunal decision in *Vyse -v- Wyldecrest Parks (Management) Limited* 2017 [UKUT] 24. [Vyse]
14. A pitch fee is payable by each Respondent. Pitch fee is defined in paragraph 29 of Part 1 of Schedule 1 of the 1983 Act as:

"The amount which the occupier is required by the agreement to pay to the owner for the right to station the mobile home on the pitch and for use of the common areas of the protected site and their maintenance but does not include amounts due in respect of gas, electricity, water,

sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts."

### **Inspection**

15. The Tribunal attended the site immediately before the hearing. Present were Mr Suker Solicitor of IBB Law for the Applicant and Mrs Reach Operations Manager for Royal Life.
16. For the Respondents Mr Tweed accompanied the Tribunal. Mrs Bell met the Tribunal at one point.
17. The Tribunal found an established residential park in a semi rural location just outside Borden and Whitehill in Hampshire.
18. The park is divided into two areas. The front part, approached through wrought iron gates on brick piers features good quality modern bungalow style units of above average size.
19. The rear section, known as Redhouse, is an area of older small residential park homes. This area is undergoing redevelopment on a phased basis.
20. There is a communal residents' building in place. This is described as temporary and the Tribunal was shown a larger unit stored in Redhouse, awaiting permanent resiting.

### **The Hearing**

21. Present at the hearing were:

For the Applicants: Mr Suker and Mrs Reach

For the Respondents:

Mr Terry Duffield & and Mrs Jennifer Duffield 8 Laburnum Drive

Mrs Yvonne Coogan & Mr Anthony Coogan 10 Laburnum Drive

Mrs Sally Bell 15 Laburnum Drive

Mr Christopher Tweed 17 Cherry Blossom Drive.

22. Mrs Coogan and Mr Tweed spoke for the Respondents.
23. During the hearing the Respondents referred to a second bundle. It became apparent that, whilst the Applicant had received the bundle as directed, the Tribunal had not. During a recess the Tribunal deliberated this point and subject to hearing the Applicant's submissions, indicated that it was minded to accept the bundle once discovered, having noted the pages and information referred to at the hearing. The Applicant was given time to make submissions and confirmed that there would be no objection.
24. The Tribunal heard submissions from both parties and addressed the items cited by the Respondents as the reason why the pitch fee increase was unreasonable. The Tribunal has now received 2 bundles. All

submissions and bundles have been considered by the Tribunal and no inference should be taken where specific items raised have not been referred to in this decision.

25. **The Applicant:** Mr Suker stated that the increase in a pitch fee is guided by a statutory assumption that, save for certain circumstances, the fee should increase/decrease annually in line with the increase in RPI. The items complained about are not of sufficient weight to displace the statutory assumption.
26. In an answer to questions on the application form, the Applicant indicates that there has been no deterioration in the condition and/or any decrease in the amenity of the site, or any adjoining land which is occupied by the owner, since 26 May 2013 (in so far as regard has not been had to that deterioration or decrease on a previous pitch fee determination).
27. **The Respondents** maintain that the increase is excessive and does not reflect the existence of the items they refer to as grounds for their objection to the proposed increase in pitch fees.
28. Responses received from the Respondents raised similar grounds and the Applicant replied collectively dealing with the groups of issues raised. The Respondents assisted at the hearing by following this grouping. Accordingly, the Tribunal will deal with each of these grounds in turn.

### **The Evidence**

29. The Respondents allege that the site has deteriorated and point to a “clean up” operation on the Redhouse part of the site immediately prior to the Hearing.
30. They state that the Applicant has glossed over the issues and that complaints made are not followed up or dealt with.
31. Offers to negotiate the pitch fee increase have been rejected or ignored.
32. The Applicant does not accept that the site has deteriorated since the last review on 1 January 2022 or since 26 May 2013. They consider that no substantial evidence has been put forward to substantiate dislodging the statutory presumption.
33. Specifically the grounds cited by the Respondents are:-

### **Facilities and amenities**

34. The Respondents state that a full sized amenity hub, gym or pool was to be provided and included in the cost of the pitch fee.

35. In the second bundle at 206 they claim that a WhatsApp group message chain shows that in 2021 a £2000 reduction was allowed as credit to reflect the lack of these amenities.
36. The Applicant states that this is a developing site with inevitable interruption and disturbance but that the Respondents were aware of this when they bought their properties.
37. No evidence has been produced that the items complained of only occurred in the review period and no reference was made to these items in previous reviews.
38. A temporary residents common building is in place and a larger new one has arrived on site albeit not installed. This is due to the company being in receivership and not a factor to be considered under s18 and Vyse.
39. The complaints under this heading are not of sufficient weight to displace s 18 and the statutory assumption that the pitch fee should rise by the RPI. There were no complaints raised in this respect at the time of the last review.

#### Roads and Pathways, Health and Safety.

40. The Respondents say that the roads are in a poor state with raised drains, poor finishes and raveling and include photographs in the bundles taken in October 2022. They state that the poor condition existed during the period under review.
41. Roads have been dug up to replace a Calor gas pipe and the top coat to complete the reinstatement has not been applied. The roads have deteriorated over the winter months.
42. The 5 mph site speed limit is actually 10 mph in the Redhouse part of the site. There is no street light outside 17 Cherry Brook Drive.
43. The Applicant states that this is a developing site and the Respondents were aware of this when purchasing. Certain works were necessary to carry out infrastructure works including the provision of mains gas.
44. The site speed limit is 5 mph and there is no record of complaints regarding this.
45. Matters of Health and Safety would have been raised by the council and no such issue has been recorded by the Applicant.
46. No evidence of sufficient weight has been produced to justify departure from the statutory assumption.

### Noise and Disturbance

47. The Respondents refer to Item 11 in the Written Statement which sets out the occupiers right to quiet enjoyment and state that they do not have that privilege.
48. Mr Tweed on the Redhouse site at 17 Cherry Blossom Drive says that there was no privacy in 2022 due to workers on site overlooking. Noise from machinery in operation caused disturbance. This situation has continued for the past 23 months.

### Security and Gates

49. The Respondents produced email records of correspondence regarding issues with the security gates at the site. They state that they bought their property on the basis that the site was secure and gated.
50. The mains gates have been broken for some time and rear security vis Redhouse is poor. A burglary took place in July 2023.
51. The temporary fence between the main site and the Redhouse area awaiting development has actually been in place for 4 years.
52. The Applicant states that they have no record of complaints prior to the current responses and that the Respondents have received communication regarding the front security gates.
53. The fence is temporary and necessary during development. There have been no prior complaints.
54. There has been no change in living conditions since the Respondents moved to Oakwood and the arrangements were in place prior to the review period. These issues were not raised in previous fee reviews.

### Water supply.

55. Mr and Mrs Coogan as Respondents state that there have been problems with cuts for minutes or hours at a time.
56. The Applicant says that there have been no complaints and consider that this is insufficient to dislodge the statutory assumption.

### Electrical power supply.

57. The Respondents point to messages between residents in February, April September, November and December 2022 reporting and discussing power outages.
58. The February outage was reported by suppliers to be a site owner's problem.

59. A representative of RoyalLife on 19 February 2022 said a storm had caused site fuses to blow and that these were difficult to source. If the problem could not be sorted, then hotels would be offered as temporary accommodation.
60. In September 2022 that representative apologised for further outages and was unable to say when power will be restored.
61. In December 2022 the suggestion was that the problem was related to digging works.
62. The Applicant states that there is no real evidence of this or at least the matter was a power cut for which suppliers were responsible. Notwithstanding this they held out a possibility that temporary accommodation might be provided if the problem continued. Planned upgrades are continuing.

### **Decision in respect of the pitch fee**

63. Each pitch fee is proposed to rise by 14.2%, the rpi increase rise between the specified dates.
64. The Tribunal saw an attractive development of modern homes with a rear part, Redhouse featuring old units to be replaced. There is a temporary residents facility and a new larger one awaiting installation.
65. Development of the site clearly continues. A number of vacant pitches with hard standings and electricity points are located within the main site. The Redhouse part is inferior and aged units are out of character with the main site.
66. The issue for the Tribunal is to examine the increase, not the original fee. It must consider whether the factors raised by Respondents is of sufficient weight to depart from the statutory assumption that the fee should rise by the RPI.
67. The relevant period to be considered is between the dates of 1 January 2022 and 31 December 2022.
68. It is clear that the Respondents are aggrieved by the issues raised and no doubt this may have been exacerbated by the extraordinary rise in the RPI in 2022 which has led to this sharp increase. Nevertheless, the Tribunal must determine the issue on the evidence, statute and case law.

### **Dealing with each issue raised.**

69. Facilities and Amenities. The Tribunal finds that insufficient evidence of a decline in this element in the review period has been adduced to displace the statutory assumption. The site is attractive and temporary



common facilities are of good quality and a new common building is on site. A certain amount of change is inevitable in a developing site.

70. Roads. Whilst the Respondents point to flaws and defects in some areas, the overall condition of roads on site is good. No evidence has been produced that there was a decline in roads during the review period sufficient to displace the statutory assumption.
71. Noise. The Tribunal notes that some respondents are aggrieved by noise and disturbance but finds that a degree of such is common in a developing site and will have existed before the relevant review period. Accordingly, it finds that this is insufficient to warrant a departure from the statutory assumption.
72. Security. The Tribunal finds that whilst there have been changes and defects in the fencing, gates and security across a period of time there is insufficient evidence that this was not, at least in part, pre-existing and occurred only within the review period to rebut the statutory presumption.
73. Water. The Tribunal finds that in a developing site there may be cuts for short periods but that there is insufficient evidence to justify a departure from the statutory assumption.
74. Electrical power supply. The Applicant's statement refers to the outages occurring in 2023 outside of the review period. Yet the Applicant also agrees that one outage occurred in March 2022 which they say was caused by Storm Eunice.
75. The Respondents produced dated text message records covering 4 outages, all in 2022, the review period. The Tribunal prefers this evidence and finds that the outages all occurred in the review period.
76. Whilst a certain amount of supply issues may take place in a developing site the events of 2022 were exceptional and centred on the onsite facilities rather than external suppliers. The issue with fuses, the offer of potential temporary hotel accommodation and the need for upgrades, points to a deterioration of the amenity of the site during the review period.
77. The Tribunal finds that the electricity outages have been significant during the review period and have impacted on home owners enjoyment. With repeated outages they would naturally be anxious it might happen again.
78. Accordingly, the Tribunal finds that for this item only, the statutory assumption to adopt the RPI as a basis for increase is dislodged.
79. The Tribunal exercises its discretion in this matter and, on the evidence before it, finds that the increase in pitch fee should be reduced from 14.2% to 10%.

80. The resultant sums are:-

**2 Cherry Blossom Drive and 8, 10 & 15 Laburnum Drive**  
£266.23 with effect from 1 January 2023.

**17 Cherry Blossom Drive** £256.00 with effect from 1 January 2023.

### **Fees**

81. The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party (which has not been remitted) pursuant to rule 13(2) of The Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013.
82. Given that the Respondents have been successful in part, the Tribunal is not minded to order the Respondents to reimburse the Applicant with the Tribunal application fee of £20.00.
83. The Applicant may make representations in writing to the Tribunal by **10 January 2023** as to why they should not reimburse the application fee.
84. The Respondents will be at liberty to submit a brief response to any such representations by **17 January 2023**.
85. If the Applicant makes representations, those will be considered. The Tribunal may provide a further order in respect of re-imburement following consideration of the representations.

## **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. 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.
3. 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.
4. 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.