



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

**Case Reference** : CHI/00HE/PHI/2023/0481

**Property** : 45 Glenhaven Park, Clodgey Lane, Helston,  
Cornwall, TR13 8PW

**Applicant** : Hilden Park Homes Limited

**Representative** : Wolferstans Solicitors

**Respondent** : Mr Paul Trehern

**Representative** :

**Type of Application** : Review of Pitch Fee: Mobile Homes Act 1983  
(as amended)

**Tribunal members** : Mr W H Gater FRICS  
Regional Surveyor  
Mr M C Woodrow MRICS

**Date and Venue of  
Hearing** : 18 December 2023  
Truro Magistrates Court.

**Date of Decision** : 31 January 2024

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## DECISION

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### **Summary of Decision**

**The Tribunal determines the pitch fee of £231.79 per month, with effect from 1 January 2023.**

### **Background**

1. On 31 March 2023 the Applicant sought a determination of the pitch fee of £238.47 per month payable by the Respondent as from 1 January 2023, which the Applicant says is the review date. This represents a 14.2% rise in the fee passing of £208.82.
2. A Pitch Fee Review Notice dated 1 December 2022 was served on the occupiers proposing to increase the pitch fee by an amount that the site owner says represents only an adjustment in line with the Retail Price Index.
3. On 20 September 2023 the Tribunal issued notice that it was minded to strike out the application as it was not able to be satisfied that the pitch fee review form had been served. Subsequent statements and provision of documents by the Applicant resolved those issues.
4. Directions were issued on 10 October 2023 following the Tribunal being satisfied that sufficient information was provided by the Applicant confirming the review date. A timetable for the exchange of documents preparatory to a determination on the papers unless a party objected in writing was given.
5. The Respondent was asked to complete a reply form and send any objection and supporting documentation to the Applicant and the Tribunal by 31 October 2023.
6. The Tribunal received an email with attached documents from the Respondent, Mr Trehern, on 26 October 2023, objecting to the increase.
7. On 15 November 2023 the Tribunal issued directions for a hearing which subsequently took place at Truro on 18 December 2023.
8. 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 with effect from 1 January 2023 in respect of the pitch occupied by the Respondent.

9. The proposals for review were contained in a letter dated 1 December 2022. It set out two proposals. The first increasing the existing pitch fee by 14.2%- the RPI increase. The second was a conditional offer reducing this amount by 3.2%, which required the occupier to accept an 11% increase by 1 January 2023. The Respondent did not accept that offer and the second proposal has lapsed.

### **The issues**

10. The Tribunal has established that the Respondent has raised the following issues to be considered in the determination of the pitch fee:-
  - Lack of improvements in the last year
  - Surface water drainage issues
  - Absence of lighting in the bottom car park
  - Collapsed drain.
  - Fire equipment on site.

### **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 or decrease by a percentage which is no more than any percentage increase or decrease in the Retail Prices Index (RPI) since the last review date and applies unless factors identified in paragraph 18 are demonstrated so that the presumption does not apply.
13. If the presumption does apply, it may be rebutted but only by other factors which are sufficiently weighty to do so. 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:
15. *“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.”*
16. Paragraph 18 of Schedule II states —

- (1) "When determining the amount of the new pitch fee particular regard shall be had to—  
.....

(aa) in the case of a protected site in England, 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);"

### **Inspection**

17. The Tribunal attended the site immediately before the hearing. All parties and their representative were present.
18. The Tribunal found an established residential park said to date back to 1962 within the town of Helston fronting Clodgey Lane. Mobile Homes on site are of mixed age and there is residential development adjoining. The site slopes down to the South.

### **The Hearing**

19. Present at the hearing were:

For the Applicants: Hilden Park Homes : Mr Rory Taylor and Mr Jack Taylor  
Represented by Mrs Melanie Burton of Wolferstans Solicitors.

The Respondent Mr Paul Trehern represented himself.

20. As a preliminary issue it was confirmed with the parties that, despite the Applicants keeping no copies of the review notice form, the correct documentation had been served.

### **The Evidence**

21. **The Respondent** maintains that the increase is excessive and states that neither the increase by 14.2% or the second concessionary proposal at 11% are justified having regard to the grounds for his objection to the proposed increase in pitch fees.

22. The grounds of the objection are issues relating to

- Lack of improvements in the last year
- Surface water drainage issues
- A collapsed drain
- Absence of lighting in the bottom car park
- Fire equipment on site.

23. **The Applicant:** The Applicant relies on the statutory assumption in the Act that the pitch fee shall rise by the RPI, unless factors identified in paragraph 18 are demonstrated so that presumption does not apply.
24. They state that the presumption in this case is not displaced and that the matters raised in the Respondents objection are not sufficiently weighty to justify rebuttal.
25. They bought the site during the Pandemic and they knew that it needed work. They are committed to improving the site. For example improvements to soakaways and firefighting works have been carried out. Further works are in hand for March 2024.
26. They cite Vyse being the most recent Upper Tribunal decision relating to pitch fees. They say that the Respondents complaints are not of sufficient weight to displace Paragraph 18 and the statutory assumption that the pitch fee should rise by the RPI.

The specific grounds and the parties evidence.

27. The Respondent says that he sent photographic evidence of issues over a period of 18 months and that the Applicants have only just responded. For example, the street light by No.43 fell over and was not replaced. Photographic evidence was said to show rainfall issues over the last three years have caused flooding to the site. The Applicants had done a good job recently, but things had been bad before.
28. Regarding surface water drainage there is pooling of water every time it rains, and this causes a loss of access to his garage. After rainfall the lower areas have a build up of mud and silt for some 20 metres.
29. The lack of lighting in the lower car park has been referred to the Applicant regularly during the year but nothing has been done.
30. A “so called” drain has collapsed and presents a risk to cars at night.
31. He questions when the fire extinguisher stations were last serviced.
32. The Applicant, in addressing the issues raised point out that they have implemented a maintenance programme and a range of improvements are planned. Some £70,000 was spent on major works to the sewerage services and work on drystone walling will commence shortly.
33. Regarding surface water drainage, the development of the adjoining site for housing destroyed an existing storm drain. This materially affected drainage at Glenhaven Park and it was necessary to install a new soakaway at the bottom of the site.
34. The Applicant denies that this represents deterioration in the drainage and points to Met Office data regarding the history of rainfall. The

sloping site means that the lower levels will suffer more in heavy rainfall.

35. Regarding lighting, the Applicant says that residents are divided as to whether they want more lighting or not. There was no lighting around the area referred to when they bought the site. The requested addition of lighting where there was none is not a factor to be considered for a reduction in pitch fee. The light at No.43 was resited by agreement with the resident.
36. Firefighting equipment. The Applicant states that this equipment is serviced by Chubb and provided a service report. This shows that a basic service was carried out in December 2022.

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

37. The pitch fee is proposed to rise by 14.2%, the rpi increase rise between the specified dates.
38. The issue for the Tribunal is to examine the increase, not the original fee. It must consider whether the factors raised by Respondent are of sufficient weight to depart from the statutory assumption that the fee should rise by the RPI.
39. The relevant period to be considered is between the dates of 1 January 2022 and 31 December 2022.
40. It is clear that the Respondent is aggrieved by the issues raised and this may have been exacerbated by the extraordinary rise in the RPI in 2022 which has led to this sharp increase in the proposed pitch fee. Nevertheless, the Tribunal must determine the issue on the evidence, statute and case law.

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

41. Lack of improvements, lighting and fire equipment. The Tribunal finds that insufficient evidence of a decline in these elements in the review period has been adduced to displace the statutory assumption. Whilst there may well be ongoing issues which need to be addressed, they are not of sufficient weight to displace the statutory assumption of an RPI increase.
42. The Tribunal finds that the surface water drainage issues have been significant and exacerbated by the collapse of the soakaway. A certain amount of surface water issues may well be recurring in an area with substantial rainfall and on a sloping site but the problem was exacerbated by the advent of adjacent development. The need for substantial repairs by contractors and the ongoing effect on use of the lower end of the site are significant.

43. There is no evidence that a reduction has been made in the past for these surface water drainage issues as envisaged in Paragraph 18 (aa) and the Tribunal finds that this issue, combined with the extraordinary rise in RPI make a “weighty matter” sufficient to dislodge the statutory assumption.
44. Accordingly, the Tribunal finds that for this item only, the statutory assumption to adopt the RPI as a basis for increase is dislodged.
45. 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 11%.
46. The resultant pitch fee, with effect from 1 January 2023 is therefore **£231.79 per month.**

### **Fees**

47. 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.
48. Given that the Respondent has been successful in part, the Tribunal is not minded to order the Respondent to reimburse the Applicant with the Tribunal application fee of £20.00.
49. The Applicant may make representations in writing to the Tribunal by **10 February 2023** as to why the Respondent should reimburse the application fee.
50. The Respondent will be at liberty to submit a brief response to any such representations by **17 February 2023.**
51. 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.