



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

<b>Case reference</b>	<b>Property</b>	<b>Response from Respondent</b>
CHI/40UE/PHI/2023/0314	2 Beauford Park	Yes
CHI/40UE/PHI/2023/0315	4 Beauford Park	Yes
CHI/40UE/PHI/2023/0316	7 Beauford Park	
CHI/40UE/PHI/2023/0317	8 Beauford Park	Yes
CHI/40UE/PHI/2023/0318	13 Beauford Park	Yes
CHI/40UE/PHI/2023/0319	14 Beauford Park	Yes
CHI/40UE/PHI/2023/0320	18 Beauford Park	Yes
CHI/40UE/PHI/2023/0321	19 Beauford Park	
CHI/40UE/PHI/2023/0322	21 Beauford Park	
CHI/40UE/PHI/2023/0324	23 Beauford Park	
CHI/40UE/PHI/2023/0325	24 Beauford Park	
CHI/40UE/PHI/2023/0326	25 Beauford Park	Yes
CHI/40UE/PHI/2023/0327	26 Beauford Park	
CHI/40UE/PHI/2023/0328	27 Beauford Park	
CHI/40UE/PHI/2023/0329	29 Beauford Park	Yes
CHI/40UE/PHI/2023/0330	31 Beauford Park	
CHI/40UE/PHI/2023/0331	33 Beauford Park	Yes
CHI/40UE/PHI/2023/0332	35 Beauford Park	Yes
CHI/40UE/PHI/2023/0333	36 Beauford Park	Yes
CHI/40UE/PHI/2023/0334	37 Beauford Park	Yes
CHI/40UE/PHI/2023/0335	38 Beauford Park	Yes
CHI/40UE/PHI/2023/0336	39 Beauford Park	
CHI/40UE/PHI/2023/0337	40 Beauford Park	Yes
CHI/40UE/PHI/2023/0338	40A Beauford Park	Yes
CHI/40UE/PHI/2023/0339	41 Beauford Park	Yes
CHI/40UE/PHI/2023/0340	43 Beauford Park	Yes
CHI/40UE/PHI/2023/0341	43A Beauford Park	
CHI/40UE/PHI/2023/0343	48 Beauford Park	
CHI/40UE/PHI/2023/0344	49 Beauford Park	Yes
CHI/40UE/PHI/2023/0345	50 Beauford Park	Yes
CHI/40UE/PHI/2023/0346	51 Beauford Park	Yes
CHI/40UE/PHI/2023/0347	52 Beauford Park	Yes
CHI/40UE/PHI/2023/0348	53 Beauford Park	Yes
CHI/40UE/PHI/2023/0350	57 Beauford Park	
CHI/40UE/PHI/2023/0351	58 Beauford Park	Yes
CHI/40UE/PHI/2023/0352	59 Beauford Park	Yes
CHI/40UE/PHI/2023/0353	61 Beauford Park	Yes
CHI/40UE/PHI/2023/0354	62 Beauford Park	Yes
CHI/40UE/PHI/2023/0355	62A Beauford Park	Yes
CHI/40UE/PHI/2023/0356	63 Beauford Park	Yes
CHI/40UE/PHI/2023/0357	67 Beauford Park	Yes

CHI/40UE/PHI/2023/0358	69 Beauford Park	Yes
CHI/40UE/PHI/2023/0359	70 Beauford Park	Yes
CHI/40UE/PHI/2023/0360	71 Beauford Park	Yes
CHI/40UE/PHI/2023/0361	Pippins, 68 Beauford Park	Yes
CHI/40UE/PHI/2023/0362	Skylark, Beauford Park	Yes
CHI/40UE/PHI/2023/0363	The Look Out, Beauford Pa	
CHI/40UE/PHI/2023/0364	Tollywood, Beauford Park	Yes

**Applicant** : Sovereign Park Home Estates Ltd

**Representative** : Chubb Bullied Solicitors  
Jordan Davidson

**Respondent** : The Occupiers of the properties listed above

**Representative** :

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

**Tribunal members** : Mr W H Gater FRICS  
Regional Surveyor  
  
Judge T Hingston  
  
Mr L Packer

**Date of Hearing** : 24 January 2024

**Date of Decision** : 14 February 2024

---

## DECISION

---

### **Summary of Decision**

**The Tribunal determines pitch fees as set out on the attached schedule.**

### **Background**

1. These applications have been made for the determination of a pitch fee increase for each of the named properties at page one and two. The Applicant says they have served a Pitch Fee Notice on each of the occupiers proposing an increase of the current pitch fee by 14.2% with effect from 1 January 2023.
2. Directions were issued initially on 21 November 2023 setting out a timeline for the exchange of documentation prior to a determination. The Tribunal noted that there were issues in relation to the written statements submitted for numbers 39 and 48. This meant the Tribunal was unable to be satisfied that the review date had been correctly specified.
3. Representations were received from the Applicant and following a review of those cases, on 25 October 2023, the Tribunal joined both cases to the proceedings and set out amended dates for the parties to proceed further with the reply process.
4. The Tribunal listed all the applications before it, irrespective of whether the occupiers had sent a response.
5. The Applicant's replies to the Respondents objections were received by the Tribunal on 26 October 2023.
6. As some objections to the applications had been received, the Tribunal directed that the matter should be heard at a hearing which took place on 24 January 2024.

### **The Law**

7. The Tribunal is required to determine whether the proposed *increase* in pitch fees is reasonable. Some Respondents point to inconsistencies in pitch fee levels. Consideration of this is outside of the jurisdiction of the Tribunal in this application. The Tribunal is not deciding whether the overall level of pitch fee is reasonable.

8. 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."

9. 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.
10. See the Upper Tribunal decision in *Vyse -v- Wyldecrest Parks (Management) Limited* 2017 [UKUT] 24. [Vyse]
11. At paragraph 27 Vyse sets out the four provisions as the basis on which the FTT determines the pitch fee.
12. Paragraph 16 of the 1983 Act states that the pitch fee can only be changed by the FTT if it "considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee".
13. Paragraph 18(1) specifies a number of matters to which "particular regard shall be had" when determining the amount of the new pitch fee, including: -
- 18(1)(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* [emphasis added] 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) in the case of a protected site in England, 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, [emphasis added]* 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);
14. The task for the Tribunal is therefore to determine whether it is reasonable to change the pitch fee and if so, whether the issues raised by

the Respondents are of sufficient weight to dislodge the presumption that the pitch fee should rise by no more than the RPI.

### **Inspection**

15. The Tribunal attended the site immediately before the hearing. Present were Mr Small, Messrs Self for the Applicant. The Respondents in attendance were Mr Attew, Mrs Sparks, Mrs Johnson, Mr Cable and Mr Lamb.
16. Beauford Park is situated in the village of Norton Fitzwarren about two miles to the north west of Taunton.
17. The Tribunal found that the site, which slopes slightly down from the road, comprises relatively modern bungalow style park homes with tarmac avenues and roadways.

### **The Hearing**

18. Present at the hearing were:

For the Applicant:-

Mr Jeffrey Small, Mr Callum Self and Mr Gary Self.

For the Respondents: -

Mr Attew

Mrs Sparks

Mrs Kathleen Johnson

Mr Lamb

Mr Cable

19. Mr Attew had originally been appointed spokesperson for the Respondents but was unwell on the day and unable to speak at length. As a result, Mrs Johnson took on the role at the hearing. On inspection the Tribunal heard factual information only from all parties in attendance.
20. The Respondents sought to submit additional analytical data by plot number in support of their case. On hearing the submissions of both parties and in view of the fact that such data would in any event already be available to the Tribunal, permission to include these documents was refused.
21. The Tribunal reached its final decision after considering the oral and written evidence, including documents referred to in that evidence, and taking into account its assessment of the evidence.
22. As appropriate, and where relevant to the Tribunal's decision these are referred to in the reasons for the Tribunal's decision.

23. This determination does not refer to every matter raised by the parties, or every document the Tribunal reviewed or took into account in reaching its decision. However, this does not imply that any points raised or documents not specifically mentioned were disregarded. If a point or document was referred to in the evidence or submissions that was relevant to a specific issue, it was considered by the Tribunal in making this decision.
24. A number of respondents took the opportunity to raise issues outside of the jurisdiction of the Tribunal determining a pitch fee review but which may have remedies elsewhere.

### **The Respondents**

25. Mrs Johnson made submissions to the Tribunal on behalf of the Respondents in support of their individual written responses. The Tribunal carefully considered the written responses of each of those who had replied. The Applicant made oral submissions in support of their application and both Applicant and Respondents were permitted to question the other at the end of submissions.
26. In view of the large number of responses, most referring to similar issues, the Tribunal grouped the issues raised and considered each in turn.

### **Flooding**

27. The Respondents state that there are an inadequate number of surface water drains on site and flooding takes place particularly at the lower end of Lanes 1 and 2. Surface water stands for one or two days after heavy rainfall , and this happens on average once a month.
28. Mrs Aarons of B38 points out that her garden floods up to the bottom step to her home.
29. The Applicant states that surface water drainage on the site is adequate. Heavy downpours of rain will on occasion create a build-up of surface water. It will drain away as weather improves.

### **Subsidence**

30. The Respondents showed the Tribunal signs of subsidence in garages, particularly floors and driveways. The garage at 51 had not been used for two and a half years and the Tribunal was shown internal cracking.
31. The Applicant states that the only subsidence issues impact numbers 48 and 51 and that these are actively being dealt with and plans are in place with the owners of each.

32. Regarding the garage at 51 the Applicant maintains that the cracking follows an extension by the owner and is not in effect subsidence.

### **Condition of the roads**

33. The Respondents state that in places the road surfaces are breaking up and subsiding. The tarmac at the site entrance is poor and asbestos/concrete has simply been covered over. There are trip hazards with manholes and uneven steps in the road surface are a hazard to disabled persons.
34. The Applicant says that the Park roads are in good condition and they are checked monthly. Potholes are repaired as and when they appear. Some areas are newer than others, but all are in good condition.

### **Foul drainage**

35. The Respondents state that there were multiple drain blockages in early 2023. The Tribunal was shown an annotated diagram of the suspected layout of pipes connecting plots 52 through to 27 between Lanes 2 and 3. This seeks to show that there are ongoing issues with foul drainage on site. The Respondents claim that there is a piece of blockwork obstructing one pipe, but no photographic or technical evidence was submitted.
36. The Respondents pointed to the lack of rodding eyes to clear blockages.
37. The Applicant states that contractors have confirmed that the main issue is with residents flushing wipes and fat which cause blockages. The Applicant's evidence was that they always called out Metro Rod within 24 hours: they (the site owners) generally paid the bill when there were issues, except when the contractors specifically said that the individual occupiers had cause a blockage by putting unsuitable items such as wipes and fat down the drains.
38. Contractors confirm that in the absence of rodding eyes, direct rodding through a wc pan is acceptable.

### **Visitor Parking**

39. The Respondents state that visitor parking is inadequate and that visitors sometimes have to park off site. They consider that there are only three spaces at the entrance to the site.
40. The Applicant points out that at the time of the last Tribunal there were no visitor parking facilities. There are now four spaces at the entrance and plans for four additional spaces are in hand. The Applicant had tried to mark out parking spaces at various points on the roads but the

residents had objected to visitor parking outside their homes. The individual homes mostly have long drives with space for visitors and this was accepted by the Local Authority.

### **General maintenance**

41. The Respondents submit that regular maintenance is lacking. Mr and Mrs Taylor in 67 Beauford Park say that actual maintenance equates to approximately four hours by two men per month.
42. The Applicant states that a regular monthly maintenance program is followed which involves:
  - a. Sweeping all Park roads.
  - b. Cleaning of signs in the Park.
  - c. Weeds pulled from around the Park.
  - d. The tidying of car park areas.
  - e. Drains cleared across the Park where required.
  - f. Cleaning and checking of the Notice Board.
  - g. Filling in of any potholes, as required.
  - h. Cutting and strimming of communal areas.
  - i. Tidying up the Park entrance.
  - j. Checking of fire hydrant boxes.
  - k. Checking street lights.

The Park is checked monthly by the Company Director. Additional Park checks are undertaken by Callum Self.

### **Miscellaneous matters**

43. The Tribunal heard of the presence of rats on site which it was claimed came from the adjoining disused building Norton Fitzwarren House, although it was acknowledged that the close proximity of a river bank was another possible source.
44. The Applicant says Norton Fitzwarren House is a separate house next to the park which is being developed. The property is nothing to do with Beauford Park, and it has a separate entrance away from Beauford Park.
45. The fence adjacent to number 59 is said to be incomplete being partly based in a concrete frame. Surface water runoff is cascading into the neighbouring garden below.
46. The Applicant states that all fences on site are complete and adequate.



47. The Tribunal was shown the fire hydrant outside number 25 which was loose in its stand.
48. The Respondents state that street lighting is inadequate.
49. The Applicant maintains that in fact improvements have been made since 2019 and newer lighting is better.

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

50. Each pitch fee is proposed to rise by 14.2%, the RPI increase rise between the specified dates.
51. The Tribunal recognises that both the Applicant and Respondents are proud of Beauford Park but that there is disagreement as to the standard of maintenance and whether the amenity of the park is improving or declining. Feelings at times run high and the list of issues raised sometimes goes beyond what can properly be considered on this type of application. The Tribunal reminded the parties of the specific nature of the jurisdiction it holds on a pitch fee review.
52. The issue for the Tribunal is to examine the increase, not the original fee. It must consider whether the proposed increase is reasonable and if not whether the factors raised by Respondents are of sufficient weight to depart from the statutory assumption that the fee should rise or fall by the RPI.
53. 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.**

Flooding/Surface Water drainage issues.

54. Whilst there is disagreement on whether surface water build-up amounts to a flood or is simply a temporary issue of standing water, the Tribunal is satisfied that there is a problem with water standing in some areas after periods of heavy rain. The Tribunal noted that along most of The Avenue there was a marked absence of surface water drains in the road which slopes down.
55. It was dry on the day of inspection but there had been heavy rain in the preceding days. There were signs of silt collection at the areas said to flood. Photographic evidence shows standing water up to kerb level. The Tribunal accepts the evidence of the Respondents that this occurs

around once a month and the water remains for about a day or two. There was no evidence that any mobile home has suffered flooding but standing water on roads and gardens is an inconvenience to occupiers some of whom are vulnerable.

56. The 2019 Tribunal found that this issue was not sufficiently bad to reduce the increase in fee then allowed. Subsequent to that the Tribunal finds that the incidence of flooding has increased ; is an inconvenience to residents and that as a result there has been a decline in amenity of the site . It notes that that no allowance in the pitch fees has been made for this in the past.

#### Subsidence.

57. The parties agree that there have been issues with subsidence on site. Some works are in hand to a small number of homes. The matter was referred to in a 2019 Tribunal hearing.
58. The evidence shown in the current case to support a claim of subsidence focussed on issues with garages, drives and pathways. In answer to questioning by the Tribunal the Respondents confirmed that there is no current subsidence in a mobile home base. On inspection Mr Lamb pointed to repairs to the base skirt around his mobile home but the item referred to was to do with the finish rather than structural.
59. The written agreements at 21(c), state that the owner shall, *be responsible for repairing the base on which the mobile home is stationed and for maintaining any gas, electricity, water, sewerage or other services supplied by the owner to the pitch or to the mobile home.*
60. In addition, at 21(d) *The occupier shall maintain the pitch, including all fences and **outbuildings** [emphasis added] belonging to, or enjoyed with, it and the mobile home, in a clean and tidy condition.*
61. It follows that, on this occasion, the alleged subsidence has occurred in areas for which the site owners are not responsible under the written agreement. There may be other contracts of supply of outbuildings etc, affecting liability but this is outside of the scope of a pitch fee review.
62. Whilst the Respondents affected by these issues involving outbuildings paths and drives etc are clearly aggrieved, the remedy for these matters may be elsewhere but not in the determination of the pitch fee. It is uncertain from the evidence whether each item claimed as subsidence is not in fact wear and tear on a poorly constructed subbase.
63. Works are in hand for a small number of affected homes but this is not sufficient to amount to a deterioration of the amenity of the site. Given that there is no subsidence in any of the mobile home bases then it would not be appropriate to depart from the statutory assumption for this item.

#### Condition of roads.

64. The Tribunal finds that the overall condition of the roads at the park is good in places. There are some relatively small areas that are poor which, to maintain serviceability will require regular attention but this is not sufficiently weighty to dislodge the statutory assumption that the pitch fee should follow the RPI.

#### Foul drainage.

65. The parties acknowledge that there have been issues with foul drainage but disagree on the cause. The Respondents say that there is a deficiency in the system and hidden blockage, but the Applicants claims that incorrect use by residents is to blame. Whilst this is a significant matter to those affected and a remedy must be sought, the Tribunal finds that the weight of evidence is insufficient to depart from the statutory assumption in paragraph 18.

#### Visitor parking.

66. The Tribunal finds that visitor parking has improved since the last Tribunal. The space at the front can accommodate four vehicles of normal size. Driveways to individual homes will alleviate some issues. Whilst additional parking would be desirable, the current arrangement is not in deterioration nor is it sufficient to warrant a departure from the RPI assumption.

#### Regular maintenance.

67. The Tribunal found that the overall tidiness of the site was good but that there may be issues that arise which require attention. The Tribunal welcomes the confirmation at the hearing that the Residents Association would be reinstated and that the Respondents will endeavour to report issues direct to the owners for early attention. By and large the overall standard of maintenance was not found to be deficient to the extent that a departure from the statutory presumption is warranted.
68. Miscellaneous issues. The Tribunal has summarised key miscellaneous matters but there were a range of issues raised by the Respondents in replies or at the hearing.
69. The Tribunal finds that whilst opinions are honestly held and that some matters may have other routes to recourse, none of the miscellaneous matters referred to were of sufficient weight to dislodge the statutory assumption that the pitch fee should be in line with RPI movement.

## **Determination**

70. The Tribunal finds that applying the RPI increase of 14.2% in this case would produce an unreasonable result.
71. The task of the Tribunal therefore is to determine what is reasonable. As noted in Vyse there is no specific guidance in statute or case law on how this is to be done and the Tribunal must use its own expertise in arriving at a reasonable result.
72. The Tribunal finds that allowance must be made only for the ongoing surface water drainage issue in determining these pitch fees in accordance with the Act.
73. It finds that the issue amounts to a deterioration in amenity affecting the use of the site. Whilst this is not so severe to warrant a nil increase, the correct adjustment to the existing pitch fee should be an increase of 11% as opposed to the proposed 14.2%
74. The resultant pitch fees so determined are set out below.

## **Fees**

75. 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.
76. 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.
77. The Applicant may make representations in writing to the Tribunal by **27 February 2024** as to why they should not reimburse the application fee.
78. The Respondents will be at liberty to submit a brief response to any such representations by **5 March 2024**
79. If the Applicant makes representations, these will be considered. The Tribunal may provide a further order in respect of reimbursement 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.