



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

**Case reference** : **BIR/00CT/PHI/2023/0203**

**Properties** : **19 Eaves Green Park Showell Lane  
Meriden, West Midlands CV7 7JA**

**Applicant** : **Mr Henry Morrison**

**Representative** : **Tozers LLP (Ref: KEM/PDK/M04992-  
0007)**

**Respondent** : **Mr Adrian Hodson and Mrs Donna  
Hodson**

**Type of application** : **Pitch Fee Review (1 July 2023)**

**Tribunal members** : **Judge C Payne  
Mr R Cammidge FRICS**

**Date of Inspection  
and hearing** : **14 June 2024**

**Date of decision** : **09 September 2024**

---

**DECISION**

---

## **Summary**

We determine that the pitch fee for the Property should increase from the review date of 1 July 2023 in accordance with the Notice dated 1 June 2023 to £199.27.

## **Reasons for the Decision**

### **Introduction**

1. The Applicant is the Park Owner, and the Respondents are the occupiers of the Property described above. The Respondents have signed a Written Statement in relation to the Property, which detailed the pitch fee and contained an annual review date of 1 July. The pitch fees were last reviewed on 1 July 2022, when the Respondent agreed the pitch fee. The current monthly pitch fee is £183.32 per month.
2. By a Notice dated 1 June 2023, the Applicant gave notice to the Respondents that they proposed to review the pitch fee from the review date of 1 July 2023. The proposed pitch fee is £199.27.
3. While the Applicants may rely on the RPI Index of 11.1%, they have chosen to apply the CPI Index of 8.7%.
4. The pitch fee does not include payment for water, sewerage, gas, electricity or any other services. Water, sewerage and electricity bills are charged separately.
5. The Respondents did not agree to the proposed increase and did not make an application to the Tribunal. The Applicant applied to the Tribunal for a determination of new level of the pitch fee in relation to the Property.
6. Directions were issued to the parties by the Tribunal on 5 October 2023 and 2 February 2024. The Directions set out time limits for submission of bundles. The Applicants and Respondent submitted statements and bundles of supporting documentation have been provided to the Tribunal.
7. The Respondents have agreed the previous pitch fee increases.

### **The Law**

8. The relevant legislation is contained within Schedule 1 Part 1 Chapter 2 of the Mobile Homes Act 1983 (as amended) ('the 1983 Act'). Paragraph 20 (1) provides that unless it would be unreasonable having regard to paragraph 18 (1), there is a presumption that the pitch fee will increase or decrease by a percentage which is no more than the percentage change in the RPI since the last review date.
9. Paragraph 18 (1) sets out factors to which "particular regard" must be had when determining the amount of the new pitch fee.

*'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) to (iii) ...*

*(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 (26 May 2013) (in so far as regard has not previously been had to that deterioration or decrease for the purpose of this sub paragraph);*

*(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 (26 May 2013) (in so far as regard has not previously been had for the purpose of this sub- paragraph).'*

10. The decisions in **Wyldecrest Parks Management Ltd v Kenyon and others [2017] UKUT 28 (LC)** and **Vyse v Wyldecrest Parks Management Ltd [2017] UKUT 24 (LC)** both refer to it being possible for us to take into account other factors which are "weighty factors".

11. In **Vyse v Wyldecrest Parks Management Ltd [2017] UKUT 24 (LC)** the Upper Tribunal considered the operation of the 1983 Act and the appropriate approach to be taken. It was held that:

- (a) The starting point is that there is a presumption that a pitch fee shall not increase or decrease by more than the relevant RPI percentage unless it is unreasonable to do so.
- (b) The presumption operates unless it is displaced by other competing matters which renders the increase unreasonable.
- (c) Particular regard must be given to the matters at paragraph 18(1) of the schedule, but other 'weighty matters' may also displace the presumption

12. For the RPI presumption to be displaced under the provisions of paragraph 18, the other considerations must be of considerable weight. "If it were a consideration of equal weight to RPI, then applying the presumption, the scales would tip the balance in favour of RPI" (Judge Robinson *Vyse v Wyldecrest Parks Management Ltd [2017] UKUT 24 (LC)* ).

13. Schedule 1 Part 1 Chapter 2 of the 1983 Act sets out terms implied in all Written Statements including:

Site Owners obligations:

Paragraph 22 - *The owner shall-*

*(d) maintain in a clean and tidy condition those parts of the protected site, including access ways, site boundary fences and trees which are not the responsibility of any occupier of a mobile home stationed on the protected site.*

## **The Inspection and Hearing**

14. The Tribunal inspected the Park on 14 June 2024. Mr Morrison attended with Mr Mullins, of Counsel. Mr Hodson attended on behalf of himself and Mrs Hodson. The same parties attended the in person hearing later that day.
15. Eaves Green Park is a mobile home site located 2 miles from Meriden in the West Midlands. The site consists of 58 park homes with its main entrance/ exit off Eaves Green Lane. Meriden has various local amenities including shops and restaurants. The Applicant advised the Tribunal that no other residents have opposed the pitch fee increase.

## **The Issues**

16. The Respondents referred to Paragraph 22(d) of Schedule 1, Part 1, Chapter 3 of the Mobile Homes Act 1983, which states:

*22The owner shall—*

*(d) maintain in a clean and tidy condition those parts of the protected site, including access ways, site boundary fences and trees, which are not the responsibility of any occupier of a mobile home stationed on the protected site;*

17. In particular the Respondents raised the issues of:

- (a) Overhanging Trees from Neighbouring Property
- (b) Brambles growing over from Neighbouring Property
- (c) Boundary Fence Deterioration

## **The Evidence and Submissions on the Issues**

### ***Overhanging Trees from Neighbouring Property***

18. The Respondents went into occupation of their pitch on 7 February 2022. At that time there were mature evergreen and deciduous trees abutting the boundary of the neighboring land. A pitch fee increase was proposed and accepted on 1 July 2022.
19. The parties do not dispute that a notice was served proposing a further pitch fee increase from 1 July 2023.
20. On 17 July 2023, the Respondents contacted the Applicants to say that a branch had fallen onto their Pitch from the trees on the neighboring land, which is owned by Mr Andrew Cummings. The parties agreed that the trees sit outside the protected site.
21. On the 18 July 2023, the Applicant wrote to Mr Cummings putting him on notice that a branch had fallen onto the Respondent's pitch and invited him to take action to ensure the trees were safe.

22. On the 8 August, the Applicant received an email from Solihull Council's licensing department advising him that the Respondents had made a complaint and that, as the site owner, he had an obligation to put the neighboring landowner on notice. The Applicant confirmed this had already been done. The Council were content with this response and no further action has been taken.
23. The Applicant arranged for tree surgeon, Mr Josh Dowling, to inspect the trees in August 2023. He confirmed they are young, healthy and not dangerous. He suggested that the Respondents could cut back any branches overhanging the boundary and confirmed the trees would continue to grow and need to be trimmed back regularly. Mr Cummings has historically permitted plot owners to come onto his land to cut back the trees adjacent to their plot..
24. On 30 August 2023, Mr Cummings wrote to the Applicant to advise that his gardener had also inspected the trees and confirmed they are safe.
25. In September 2023, Mr Adrian Dowling inspected the trees and produced a report for the Applicant, which was shared with the Tribunal. The report again confirmed the trees are healthy and safe.
26. The Tribunal noted that there had been no further incidents of falling branches since July 2023, despite there having been severe and inclement weather for periods of time since then.
27. During the Inspection, the Tribunal was shown a chair, which the branch is purported to have damaged when the branch fell. There was a small hole in the egg structure of a hanging chair, which the Respondent confirmed was from the branch falling. The chair was also not evident in the pictures of the branch previously submitted. The Tribunal noted that the plot owners on either side have cut back the branches overhanging their plots and no other complaints were evidenced in these proceedings.
28. The tribunal does understand Mr. Hodson's concern about a branch falling off a tree but this is not uncommon to a limited extent with many deciduous trees. In this instance the tribunal was guided by the report from Mr. Dowling who carried out a risk-based assessment and concluded that the tree was both healthy and safe. We were not persuaded by Mr. Hodson's view that this report was inaccurate and Mr. Hodson did not provide any expert reports to support his position.
29. The Applicant submitted that the trees were there in February 2022 and their condition has not deteriorated. All the plot owners are required to maintain their plots and that includes cutting back any overhanging branches and brambles, in the same way they would be expected to trim hedges and keep the plot free of weeds. The Respondent confirmed that he cut back the hedges between his plot and adjacent ones to maintain those boundaries.
30. The Applicant noted that he has no right to access the Respondents' plot to do any work on the trees and has no obligation to maintain trees or anything else on neighboring land over which he has no rights.

31. The Respondents suggested that the trees had grown 4-5 metres since February 2002. No evidence was produced to the Tribunal to support this assertion and observation of the trees during the inspection suggested that this rapid rate of growth was unlikely.

32. The Written Statement dated 5 February 2022 at paragraph 21 states:

*The Occupier Shall...*

*(d) maintain – ...*

*(ii) the pitch, including all fences and outbuildings belonging to, or enjoyed with, it and the mobile home.*

33. The Tribunal determines that the Respondents are responsible for maintaining the pitch and that would include the obligation to remove weeds or cut back any branches or brambles coming onto the pitch from the neighboring property.

### ***Brambles growing over from Neighbouring Property***

34. During the inspection, there were no brambles growing over into the plot from the neighboring land as the Respondents had cut them back.

35. The Respondents suggested that the Applicant has an obligation to put in place a fence that might prevent the brambles from neighboring land growing over the boundary.

36. The Applicant has an obligation to maintain a site boundary fence. That is not an obligation to put in place a stock proof fence or a solid barrier fence and, even if it were, the brambles are likely to grow over the top of it and still need to be cut back. The fence that is in place meets the Applicant's obligation to mark and fence the boundary of the site.

### ***Boundary Fence Deterioration***

37. The Tribunal noted that the boundary fence, which consists of a timber post and rail style of fence to which has been added chicken wire in places. The fence appeared to be of some age and its condition was generally commensurate with its age. Some deterioration was noted to the rails and the movement was evident to the base of some of the posts indicating that the posts in the ground had started to rot and become a little loose. The Applicant on noting this in the inspection, advised during the hearing that the movement was not present on previous inspection and would be addressed.

38. Some gravel boards have been nailed on to the bottom of the fence. They were of a different material to the fence and appeared to have been added at a later date. The Applicant confirmed that these are not part of the original fence. They were not evident on neighboring plots, and it was understood that they were added by the Respondents' predecessor. The boards were noted as being in poorer condition than the fence. The Applicant confirmed he is happy for the Respondents to remove or replace them. The condition of the gravel boards was not having any impact on the amenity of the boundary fence.

## **Decision**

39. The Tribunal considered all the written and photographic evidence submitted. We also had regard to the inspection we carried out and the submissions of the parties made during the hearing.
40. During the 12 month period applicable to this review, we agree that the RPI had risen by 11.1 %. The Applicant chose to apply CPI at 8.7% to its calculation of the new pitch fee.
41. For the purposes of the 1983 Act, the issue is not the actual condition of the park, nor the actual amenity of the park. Even if the Tribunal were to accept that the park had not always been maintained to a standard which the Respondents might expect, it has to consider whether there has been a deterioration or decrease in the condition or amenity of the park during the relevant period (i.e. since 26 May 2013). If the Tribunal does so find, it must consider whether allowing an RPI increase would generate an unreasonable result having regard to our decision on the reasonableness of the pitch fee increase generally.
42. "Amenity" in this context means the quality of being agreeable or pleasant and so we must look at any decrease in the pleasantness of the Park or those features of the Park which are agreeable from the occupier's perspective.
43. The Tribunal was not persuaded that it would be unreasonable for there to be a pitch fee increase as a result of deterioration in the condition or decrease in the amenity of the Park, or otherwise in the relevant period. None of this issues raised by the Respondents represented a deterioration in condition or amenity of the Park.
44. There have been no improvements to the Park since the last review for which the Applicant is seeking to recover their costs by an increase in pitch fee. There has been no reduction in the services or the quality of services supplied by the owners in the relevant period
45. We therefore accept the presumption that the pitch fee could be increased in line with the increase in RPI index over the relevant period shall apply. We are not satisfied that the Respondents have provided sufficient evidence to displace that presumption.
46. We determine that the pitch fee for the Properties should increase from the review date of 1 July 2023 in accordance with the Pitch Fee Review Notice dated 31 May 2023.
47. If the Respondents have continued to pay the original pitch fee, or less, since that date, they must pay the difference to the Applicant. The difference between the current pitch fee of £183.32 and the reviewed pitch fee of £199.27 becomes payable 28 days after this decision is issued (paragraph 17 (4)(c) Part 2 of Schedule 1 of the 1983 Act). Where the Respondent has paid less than the current pitch fee they would be considered to be in arrears.

## **Conclusion**

48. Having inspected the site, considered the parties' written submissions and the oral

evidence provided during the inspection and at the hearing, the Tribunal finds the points raised by the Respondents to be insufficient to over-turn the presumption of fee increase in the Mobile Homes Act 1983 Schedule 1, Chapter 2 , and accordingly determines that an uplift of 11.1% in line with RPI could be applied to the pitch fees from 1 July 2023. Noting the Applicant's decision to apply the lower rate of CPI 8.7%, this proposed pitch fee increase is confirmed.

**Costs**

49. No party applied for costs and we make no such award.

**Appeal**

50. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties and must state the grounds on which they intend to rely in the appeal.

Judge C Payne  
Chair  
First-tier Tribunal (Property Chamber)