



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

Case Reference : BIR/47UB/PHI/2024/0007 & 8

Property : Plots 1 & 3, Dells Farm, Bateman's Lane, Hollywood,
Worcestershire, B47 5DF

Applicant : Mr A. Hartley t/a 'Hartley Park Homes' (Site Owner)

Respondents : Plot 1: Mr & Mrs M.C. Darby
Plot 3: Mrs A. Keys

Type of Application : Applications to determine a new level of pitch fee under
Mobile Homes Act 1983, Schedule 1, Part 1, Chapter 2,
para.16.

Tribunal Members : Judge C. Payne
I.D. Humphries B.Sc.(Est.Man.) FRICS

Hearing : None. Paper Determination.

Date of Decision : **21 February 2025**

DECISION

DECISION

1 The pitch fees are determined as follows:

Plot 1: £2,306.55 (Two Thousand Three Hundred and Six Pounds Fifty Five Pence) per annum with effect from 1 January 2024.

Plot 3: £2,205.60 (Two Thousand Two Hundred and Five Pounds Sixty Pence) per annum with effect from 1 January 2024.

REASONS

Introduction

2 The Applicant, Mr A. Hartley, is the site owner of the subject property which is a mobile home park known as Dells Farm, Bateman's Lane, Hollywood, Worcestershire, B47 5DF. The Respondents are Mr and Mrs Darby, the occupiers of Plot 1 and Mrs Keys, the occupier of Plot 3.

3 Mr and Mrs Darby had been in occupation for some years before the Applicant bought the site in 2007. The pitch fee for Plot 1 was last agreed on 1 January 2023 at £2,205.11 per annum.

4 Mrs Keys has occupied Plot 3 for some years. The pitch fee of Plot 3 was last agreed on 1 January 2023 at £2,108.60 per annum.

5 On 24 November 2023 the site owner served notice of increase under The Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations 2013, proposing new pitch fees of

Plot 1: £2,306.55 per annum from 1 January 2024.

Plot 3: £2,205.60 per annum from 1 January 2024.

6 The Respondents objected.

7 On 21 March 2024 the Applicant applied to the First-tier Tribunal (Property Chamber) for the fees of both plots to be determined by the Tribunal.

8 The Tribunal consolidated the applications and issued Directions on 10 April 2024.

9 The Tribunal inspected the site on 21 June 2024 with Mrs J. Whittingham, Site Manager employed by and representing the Applicant, and Mrs Darby and Mrs Keys representing the Respondents.

The Law

10 The Mobile Homes Act 1983 ('the Act'), Schedule 1, Part 1, paragraphs 16,18 and 20 contain the following provisions:

- 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.

- 18 (1) When determining the amount of the new pitch fee particular regard shall be had to-
- (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 ...
 - (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 ...
- 20(A1) [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 price 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.
- 20(A2) In sub-section (A1), the 'latest index' -
- (a) in a case where an owner serves a notice under paragraph 17(2), means the last index published before the date on which that notice is served ...'

Facts Found

- 11 The Protected Site comprises an area of land and six mobile home pitches within a larger site known as 'Dells Farm', owned by the Applicant. It is in a rural area to the west of Hollywood and east of the A435 Birmingham to Redditch main road, about 2 miles south of the Birmingham conurbation at Maypole.
- 12 The site is accessed from Bateman's Lane by a track leading from the public highway, through a parking area and yard forming part of Dells Farm and into the Protected Site. The track within the site has a cinder or gravel surface which rises from the entrance. The Respondents own mobile homes situated on Plots 1 and 3. Plot 1 is sited immediately on the right on entering the site and Plot 3 with the other four pitches are on the left. The land to the right of the track, past Plot 1, has a gentle uphill gradient away from the track and is used as a grassed area of communal open space.
- 13 At the time of inspection there were areas where the gravel on the track had been washed away and become uneven but the gravel was of varying types indicating that it had been patched at various times on an ad hoc basis.

Submissions

- 14 Applicant
Mr Hartley submitted a Witness Statement.
- 15 He relied on the presumption of increase in paragraph 20 of Schedule 1 to the Mobile Homes Act 1983 ('paragraph 20'), detailed at paragraph 10 of this Decision. He applied the consumer price index ('cpi') to the pitch fee agreed on 1 January 2023 and assessed the new pitch fees at 1 January 2024 at £2,306.55 for Plot 1 and £2,205.60 for Plot 3.
- 16 He considered there were no over-riding changes in the amenity of the site to justify displacing the presumption of increase in paragraph 20 and cited the decision in *Vyse v Wyldecrest Ltd.* [2017] UKUT 24(LC) in evidence.

17 In respect of the Respondents' specific complaints:

1) that the street light was not working by the entrance.

Mr Hartley disputed that it had not worked for 3 years. He said it had been subject to an intermittent fault over the previous 6 months but he had instructed a contractor to replace it with an LED lantern and new electric cabling with work scheduled for completion by 17 May 2024. The Tribunal were unable to test it as the inspection was made in daylight.

2) that the track through the site had not been maintained,

Mr Hartley said he employed maintenance staff to attend on site periodically to fill and re-grade areas where the surface had deteriorated. The Submission included photographs dated 21 February 2023 showing plant and equipment on site and areas where the track had been repaired and re-graded, although he accepted it was more difficult to keep in repair over the winter due to run-off from the adjoining land. His staff had also repaired the track on 6 October 2023 and 21 March 2024. As further evidence, he included a letter from Bromsgrove District Council which was a report of an inspection on 26 September 2023 where the Officer, Miss Sharpe-Fisher, stated *'During the visit the road surface appeared to be in a reasonable state of repair with the upper section being particularly decent.'*

3) lack of maintenance of the parking space in front of Plot 1

Mr Hartley said this area had always been maintained by the Respondents.

4) lack of maintenance to the area in front of Plot 1

The area had been historically maintained by the Respondents since Mr Hartley bought the Park but if the Respondents wished him to take over the maintenance, his staff would do so providing the Respondents moved their flower pots and tubs within their plot.

18 Respondents

Mr and Mrs Darby sent a written Submission received on 22 April 2024 which was counter-signed by Mrs Keys. They said the site and parking area to Plot 1 had not been maintained properly for the previous 12 months, the frontage to Plot 1 had not been maintained, the Site Owner had carried out minimal repairs but the repairs were already showing signs of wear.

Decision

19 None of the parties requested a Hearing and the Decisions were reached by paper determination. However, the Tribunal carefully considered the points raised by the parties and took account of the site's condition during the inspection.

20 The Tribunal is satisfied the proposed increase in pitch fees was for no more than the percentage increase in the consumer price index in accordance with paragraph 20 of Schedule 1 to the Act. The cpi index for October 2022 was 126.199 and for October 2023 132.004, the month prior to the date of notice. This produced an increase of 4.6%.

21 The question for the Tribunal to consider was whether any of the points raised by the Respondents could reasonably be said to have reduced the condition or amenity of the park or services provided to the pitch within the meaning of paragraph 18, sufficient to override the presumption of increase in paragraph 20.

22 The Tribunal found the track was not in perfect condition but there was no evidence to show it had been in better condition at either the date of last increase in January 2023 or the date paragraph 20 had been introduced on 26 May 2013. Furthermore, the Site Owner had undertaken periodic repairs evidenced by photographs in the Submission and from

the Tribunal's findings on inspection, where it was evident that there were different coloured areas of surface on the track.

- 23 The light by the entrance could not be tested as the inspection was made in daylight but the Applicant acknowledged there was an intermittent fault and undertook to have it repaired.
- 24 The land in front of Plot 1 had evidently been maintained by the Respondents and the Site Owner had offered to take over responsibility for maintenance in the future, if requested to do so by the Respondents.
- 25 The parking area in front of Plot 1 was slightly uneven but functional and even had it not been maintained to the highest standard, the extent of disrepair was insufficient to displace the presumption of increase in paragraph 20.
- 26 The Tribunal are therefore left with the presumption in paragraph 20 of the Implied Terms that the pitch fee can be increased by a percentage of no more than the increase in the Consumer Price Index of 4.6% since the date of the previous agreement.
- 27 Applying 4.6% increase, the Tribunal finds the pitch fees with effect from 1 January 2024 to be for Plot 1, £2,306.55 and for Plot 3, £2,205.60.

Judge C. Payne
Chairman

Date

Appeal Procedure

If either party is dissatisfied with the 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 of the date these Reasons have been sent to the Applicant [rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013].

If the person wishing to appeal does not comply with the 28 day time limit, they shall include with the application for permission to appeal a request for an extension of time and the reason for not applying within the 28 day time limit. The Tribunal will then decide whether or not to extend the time limit to allow the application for permission to appeal to proceed. The application must identify the Tribunal decision to which it relates, state the grounds of appeal and the result the party making the application is seeking.

Alternatively, in accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, either party may make further application for permission to appeal to the Upper Tribunal (Lands Chamber) on a point of law only. Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 28 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal. Where possible, any such further application for permission to appeal should be sent by email to Lands@justice.gov.uk to enable the Upper Tribunal (Lands Chamber) to deal with it more efficiently. The Upper Tribunal (Lands Chamber) may also be contacted by post at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).