



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

<b>Case reference</b>	<b>: MAN/ooCH/PHI/2023/0330</b>
<b>Property</b>	<b>: 66, Angel of the North Park, Birtley, Chester-le-Street, DH2 1XG</b>
<b>Applicant</b>	<b>: Wyldcrest Parks (Management) Limited</b>
<b>Respondent</b>	<b>: Rachel Clarke</b>
<b>Type of application</b>	<b>: Mobile Homes Act 1983, Schedule 1 Chapter 2 Paragraph 16</b>
<b>Tribunal member(s)</b>	<b>: Tribunal Judge Jodie James-Stadden Tribunal Member Richard Harris MBE FRICS</b>
<b>Date and venue of hearing</b>	<b>: Remote Hearing 20 February 2024</b>
<b>Date of decision</b>	<b>: 20 February 2024</b>

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**DECISION**

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## **Decision of the tribunal**

- (1) The pitch fee payable by the Respondent with effect from 01 April 2023 is £185.41 per month.

## **The application**

1. This is an application by Wyldecrest Parks (Management) Ltd (“the Applicant”) for the Tribunal to determine the level of a new pitch fee from 01 April 2023, pursuant to Schedule 1, Chapter 2 of the Mobile Homes Act 1983.
2. The Applicant is the owner and operator of Angel of the North Park, Birtley, Chester-le-Street, DH2 1XG (“the Park”), having acquired it in August 2022.
3. Ms Rachel Clarke (“the Respondent”) is the owner of a park home on the Site, being No. 66, Angel of the North Park, having purchased No.66 in 2019. She has, however, lived elsewhere since October 2022.
4. The Applicant served the Respondent with notice dated 15 February 2023 seeking to increase the pitch fee from £163.50 per month to £185.41 per month with effect from 01 April 2023. The notice is in the prescribed form. The increase specified in the notice is calculated in accordance with the Retail Price Index (“RPI”) at 13.4% for January 2023.
5. The Tribunal issued directions on 05 September 2023 requiring both parties to file evidence including their statements of case. The directions stated that the application would be dealt with by way of a paper determination unless either party sought an oral hearing.
6. The Respondent requested an oral hearing, and the Applicant requested that any such hearing be by video, to which the Respondent did not object.
7. Both parties filed statements of case in accordance with the Tribunal’s directions, as more particularly described below.
8. A video hearing was held on 20 February 2024. The Tribunal also visited the Park immediately prior to the hearing, for the purposes of an inspection, to which neither party objected and which neither party attended.

## **The Respondent’s case**

9. The Respondent’s statement of case is set out in emails to the Tribunal dated 26 September 2023 and 03 October 2023, with accompanying photographs of parts of the Park.
10. The Tribunal also heard oral evidence from the Respondent.

11. The Respondent opposes the Applicant's application on the following bases:

- a. the Respondent disputes that she received notice of the pitch fee review until 05 May 2023, following a telephone call that she made to the Applicant;
- b. the Respondent states that the Applicant is not permitted to seek a pitch fee review effective from 01 April 2023 as the pitch fee was previously reviewed in October 2022;
- c. the Respondent states that the condition of the Park is poor, with uncut grass, a lack of parking, numerous potholes, accumulated rubbish and abandoned vehicles, and a sloping area which becomes 'a skating rink' in the winter;
- d. the Respondent accompanied her statements of case with photographs of uncut grass and potholes, taken by her on 31 July 2023 or 21 August 2023.

12. As noted above, the Respondent has not lived at the Park since October 2022, having chosen to live elsewhere.

13. In evidence, the Respondent confirmed that she has had difficulties with post at her park home in the past, and continues to do so. She believes that this is due to post office workers failing to deliver post due to being unable to follow the numbering system at the Park, alternatively, failing to go through the gates on the driveway to her park home. The Respondent further confirmed in evidence that, despite these difficulties and having moved to an alternative address, she has at no time arranged a postal redirection for her correspondence.

### **The Applicant's case**

14. The Applicant's statement of case is set out in the application itself, together with its accompanying documents, and witness statements signed by its Estates Director, David Sunderland, dated 05 September 2024 and 27 September 2024.

15. The Tribunal also heard oral evidence from Mr Sunderland.

16. In response to the Respondent's submissions, the Applicant states that:

- a. the pitch fee review notice was sent to the Respondent (and every other park home owner on the Park) by first class post on 15 February 2023;
- b. no other park home owner has denied receiving the notices served;
- c. if the Respondent has issues with the postal service to her park home, that is not a matter for which the Applicant is responsible;
- d. the pitch fee review which took effect from 01 October 2022 was a late review under paragraph 17 of Chapter 2 of Part 1 of Schedule 1 of the Mobile Homes Act 1983 and is irrelevant to the review which is the subject of this application;

- e. there is a presumption in favour of an increase in the pitch fee in accordance with the RPI by virtue of the provisions of the Mobile Homes Act 1983;
- f. that presumption may only be displaced if it would be unreasonable to apply it as a result of a deterioration in the condition of the Park or any loss in the amenity of the Park;
- g. the complaints made by the Respondent have not previously been raised;
- h. there is no evidence that the condition of the Park has deteriorated or any part of its amenity has been lost;
- i. the Applicant has followed the correct procedure by which to seek a statutory review of the pitch fee for the Respondent's park home.

## **The Law**

- 17. The provisions relating to the review of a pitch fee are contained in paragraphs 16 to 20 of Chapter 2 of Part 1 of Schedule 1 to the 1983 Act, aforesaid.
- 18. The pitch fee can only be changed either with the agreement of the occupier, or by the Tribunal, on the application of the owner or the occupier (paragraph 16).
- 19. The pitch fee shall be reviewed annually as at the review date (paragraph 17(1)).
- 20. The owner serves on the occupier a written notice setting out the proposed new pitch fee (paragraph 17(2)). If it is agreed, the new pitch fee is payable from the review date (paragraph 17(3)). If it is not agreed, the owner may make an application to the Tribunal to determine the new pitch fee (paragraph 17(4)). Once decided, the new pitch fee is payable from the review date (paragraph 17(4)(c)).
- 21. When determining the amount of the new pitch fee, particular regard shall be had to any sums expended by the owner since the last review date on improvements (paragraph 18(1)(a)) and any decrease in the amenity of the protected site since the last review date (paragraph 18(1)(aa)).
- 22. Unless it would be unreasonable, 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 retail prices index (paragraph 20(A1)).

## **The Decision**

- 23. The Tribunal accepts that the Applicant sent the Respondent notice of the pitch fee review by sending it to her park home at the Park in the first class post on 15 February 2023. It was thus deemed served on 17 February 2023, pursuant to the provisions of s.196 of the Law of Property Act 1925.

24. The Tribunal finds that the application is properly brought and that it is in no way precluded by the late pitch fee review that took place in October 2022, which was permitted by sub-paragraphs 17 (6) to 17 (10) of the aforesaid Act.

25. As to the condition of the Park, by the Respondent's own admission, the pot holes have been present for a considerable period of time, and certainly prior to the Applicant acquiring ownership of the Park, and the Applicant has made efforts to repair them. In evidence, the Respondent further stated that she has been informed by another Park owner that there have been recent efforts to improve conditions at the site. The Applicant confirms that this is so, stating that works are being carried out as the weather improves. The Tribunal accepts this evidence.

26. On inspection, the Tribunal found the Park and its grounds to be generally well maintained.

27. No evidence was put before the Tribunal that showed a deterioration in the condition of the Park or any loss in its amenity since the last pitch fee review date.

28. Accordingly, the Tribunal does not find that there has been a general deterioration in the condition of the Park or any loss in its amenity since the last pitch fee review which would justify a departure from the statutory presumption which applies in this case, namely that the pitch fees should increase annually in line with the RPI.

29. The Applicant seeks an order pursuant to rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 that the Respondent pay the application fee of £20.

30. The Tribunal is a 'no costs' jurisdiction and does not find the Respondent, a litigant in person, to have behaved unreasonably in opposing the application. Accordingly, the Tribunal makes no such order.

**Name: Judge James-Stadden**

**Date: 21<sup>st</sup> February 2024**

**Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).