



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

Case reference : **MAN/00EE/PHI/2023/0188-0196**

Properties : **12, 52, 96, 101 and 107 Hazelgrove Park, Milton Street,
Saltburn-by-the-Sea, Cleveland TS12 1DE**
**173, 174, 187 and 195 Hazelgrove Park, Milton Street,
Saltburn-by-the-Sea, Cleveland TS12 1FA.**

Applicant : **Tingdene Parks Limited**

**Applicant's
representative** : **Mr Clement, IBB Law**

Respondents : **Those listed in the Schedule, being the occupiers of the
nine Properties that are the subject of the
Applications.**

**Type of
Application** : **Mobile Homes Act 1983 - Schedule 1 Chapter 2
paragraph 16.**

**Tribunal
Members** : **Tribunal Judge S Moorhouse LLB
Mr A Davis MRICS FAAV**

Date of Decision : **21st February 2024**

DECISION

DECISION

1. Pursuant to the Mobile Homes Act 1983, Schedule 1, Chapter 2, paragraph 16, the tribunal Orders that the pitch fee for each of the Properties shall be increased at the review date of 1 January 2023 by 10.71%. This represents the RPI increase provided for in paragraph 20A1 of Chapter 2 less a discount of 15% of the RPI increase determined by the tribunal having regard to the provisions of paragraph 18.
2. In accordance with paragraph 17(4)(c) of Chapter 2 the new pitch fee shall be payable from the review date of 1 January 2023 but each of the Respondents shall not be treated as being in arrears until the 28th day after the date of this Order.

REASONS

The Application

3. The nine applications ('the Applications') were made by Tingdene Parks Limited ('the Applicant') and received by HMCTS on 29 March 2023. The nine sets of Respondents are the occupiers of the park homes listed in the Schedule ('the Properties'). The names of the relevant Respondents are given in the Schedule alongside the addresses of the Properties and the corresponding HMCTS references for the Applications.
4. The Applications concerned the increase of 12.6% in the pitch fee sought by the Applicant in relation to the review date of 1/1/2023. This was the first time that a pitch fee review at the site had been referred to tribunal.
5. Directions were issued on 8 June 2023 pursuant to which written submissions were made by the parties. All of the Respondents gave written authority for Respondents Mr Howard Lamb and/or Mr James Warren to represent them. An oral hearing was requested by the Respondents.
6. The hearing was convened on 22 January 2024 at Darlington Magistrates Court, being the nearest HMCTS venue available with seating for the number of attendees. The Applicant was legally represented by solicitor Mr Clement. Mr Pearson attended on behalf of the company. Mr Lamb and Mr Warren attended representing the Respondents, most of whom were also in attendance. Members of the public observed the hearing and none of the parties objected to this.
7. The tribunal considered it unnecessary to inspect the Properties since it proved possible to define the issues sufficiently for the tribunal to make its determination with the benefit of the oral testimony and representations in the hearing and the documentary evidence supplied.

The Issues

Date of the Applications

8. At the outset of the hearing the matters in issue were clarified with the parties. As a preliminary matter, the Respondents challenged the date of the Applications and

potentially the jurisdiction of the tribunal to make Orders in these cases. This preliminary matter was however withdrawn by the Respondents in the hearing.

Mr & Mrs Spencer - no. 173

9. The hearing went on to consider the position of Respondents Mr and Mrs Spencer of no. 173 who were not in attendance. It was submitted for the Applicant that these Respondents had agreed to the increase in the pitch fee of 12.6% and had commenced payment of the increased amount from 1 June 2023. The Applicant sought an Order of the tribunal that the outstanding balance for the period commencing 1 January 2023 be paid.
10. Reference was made by the Applicant to a copy email dated 30/5/2023 by Mr and Mrs Spencer to the Applicant in which they stated ‘... we feel it is the right time to pay the increase, we have changed the amount to the full price starting from the 1st June.’ Further, in a letter from the Applicant to Mr and Mrs Spencer dated 6/6/2023 the Applicant thanked them for adjusting their pitch fee.
11. Neither of the representatives for the Respondents in this case had received instructions from Mr and Mrs Spencer of their intention to accept the proposed increase or to withdraw from participation in the proceedings. In an email dated 11/11/2023 Mr and Mrs Spencer had confirmed to HMCTS that they agreed to Mr Warren being their spokesperson. It was clarified at the hearing that Mr and Mrs Spencer were intending to sell their park home and that there had been issues being resolved with the Applicant unrelated to the issues in these proceedings.
12. The tribunal did not accept the Applicant’s contention that Mr and Mrs Spencer had intended to agree the pitch fee increase. By authorising Mr Warren in November 2023 to act as their representative in these proceedings, they had shown clearly that they intended to continue their participation. Nothing had been produced to evidence their express agreement to the increase notwithstanding their actions in making payments from 1/6/2023 that reflected the increase.

Paragraph 20A1

13. Paragraph 20A1 of Chapter 2 of Schedule 1 to the Mobile Homes Act 1983 (‘the Act’) provides: *‘Unless this would be unreasonable having regard to paragraph 18(1), there is a presumption that the pitch fee increase shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the retail prices index...’* The paragraph goes on to define a method for calculating an increase by reference to RPI.
14. The RPI increase calculated by the Applicant to be 12.6% and sought in relation to the review date of 1/1/2023 had been calculated by reference to paragraph 20A1 of Chapter 2 of Schedule 1 to the Act. It was confirmed for the Respondents that the calculation of the RPI increase was not in issue.

Paragraph 18(1)

15. Paragraph 18(1) sets out the factors to which particular regard must be had in accordance with paragraph 20A1.
16. Sub-paragraph (a) relates to improvements by the owner which have been the subject of consultation and to which a majority of the occupiers have not disagreed

in writing and which the tribunal orders, on the application of the owner, should be taken into account when determining the amount of the new pitch fee. The Applicant did not seek an Order that any particular sums expended in accordance with sub-paragraph (a) be taken into account.

17. Sub-paragraph (ba) relates to the direct effect on the costs payable by the owner in relation to the maintenance or management of the site of an enactment which has come into force since the last review date. No such enactment was identified by the Applicant.
18. Sub-paragraph (aa) provides that particular regard should be had to '*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 sub-paragraph)*'.
19. Sub-paragraph (ab) provides that particular regard should be had to '*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 (in so far as regard has not previously been had to that reduction or deterioration for the purposes of this sub-paragraph)*'.
20. Seven issues concerning amenity and services were identified by the tribunal and agreed at the outset of the hearing as those in issue. Sub-paragraphs (aa) and (ab) were central to the tribunal's deliberations since these are provisions to which the tribunal must have regard in deciding whether it would be unreasonable to apply an RPI increase to the pitch fees at the review date of 1/1/2023. The seven issues concern drainage odours; flower tubs; moss on roadways; adequacy of lighting; overgrown vegetation beyond the site perimeter; the state of the land intended to from the site of phase 9 of the park homes development; and issues with standing water. These are taken in turn.

Drainage odours

21. The Respondents raised the issue that drainage odours had been apparent on the site at times. It was submitted that this had been an issue for 4-5 years and that Northumbrian Water had visited the site on occasions in connection with this.
22. The tribunal considered that there was insufficient evidence to reach a finding that this represented an issue with the amenity of the site for which the Applicant was responsible, or that there was an issue with a particular service provided by the Applicant. In deciding whether an RPI increase in pitch fee would be unreasonable under paragraph 20A1, the tribunal was required to have particular regard to paragraph 18, the most relevant provisions being sub-paragraphs 18(1)(aa) and (ab). The tribunal did not accept on the evidence before it that there had been any deterioration in condition or decrease in amenity, nor reduction in service since the issues referred to had been noted for many years.
23. The tribunal therefore makes no adjustment on the drainage odour issue.

Flower tubs

24. The issue related to the planting within 7 half-barrel flower tubs near the site entrance. These were described by the Respondents as being poorly presented, with virtually no planting in the winter months, a few pansies in the Spring and a lack of

watering of the Summer planting resulting in the flowers dying. The issue was of concern to residents not only because of the amenity of the site, but because of the wider 'Saltburn in Bloom' initiative which was essentially being 'let down' by Hazelgrove Park. It was accepted for the Respondents that some more tubs had been added to communal areas in 2023, after the review date, and park home owners would themselves provide displays specific to their own homes.

25. However, it was confirmed at the hearing that the situation had not deteriorated. For many years the situation through the winter months, in spring and in summer had been similarly disappointing.
26. In deciding whether an RPI increase in pitch fee would be unreasonable under paragraph 20A1, the tribunal was required to have regard to paragraph 18, the most relevant provisions being sub-paragraphs 18(1)(aa) and (ab). The tribunal did not accept on the evidence before it that there had been any deterioration in condition or decrease in amenity, nor reduction in service since the issues referred to had been noted for many years.
27. The tribunal therefore makes no adjustment on the flower tub issue.

Moss on Roadways

28. The Respondents raised the issue of moss appearing on roadways and visitor parking areas on the western part of the site since the roadways and parking areas were completed with the addition of the wearing course 2-3 years previously. The Applicant accepted there had been an issue with moss and that this perhaps affected 15% of roadways on that side of the site, particularly in shaded areas. The Respondents considered that the issue had been more extensive. It was common ground that the issue did not affect the eastern side of the site since the tarmac areas there had been completed only the previous year. It was also common ground that a contractor periodically sprayed kerb edges for weeds (although nobody could evidence whether the moss had been sprayed) and that in the week prior to the hearing more comprehensive measures had been taken using machinery to agitate and remove the moss.
29. The tribunal found that there had been a moss issue affecting part of the site since the addition of the wearing course to the road, that this was now being addressed but that the moss had not been removed previously. The tribunal was not satisfied that the issue had been so significant that it would be unreasonable for the statutory increase to apply. The issue had been encountered upon completing the roads and parking areas on part of the development. It had not been established to the satisfaction of the tribunal that there had been a significant deterioration in the condition of the site or any loss or amenity within the meaning of sub-paragraph (aa) and there was no evidence to suggest that there had been a reduction in services within the meaning of sub-paragraph (ab).
30. The tribunal makes no adjustment on the moss issue.

Adequacy of lighting

31. The Respondents described poor external lighting conditions on the site. There had been a particular issue with some solar lights which had been replaced with mains electric lights in September 2023. Bollard lighting to paths aided navigation but did not light paths fully - there were pools of light in the areas of the bollards. As new

areas of the site were developed additional lighting was added, however it was accepted by the Respondents that the situation had been stable for many years.

32. As has been stated, in deciding whether an RPI increase in pitch fee would be unreasonable under paragraph 20A1, the tribunal was required to have regard to paragraph 18, the most relevant provisions being sub-paragraphs 18(1)(aa) and (ab). The tribunal did not accept on the evidence before it that there had been any deterioration in condition or decrease in amenity, nor reduction in service since the issues referred to had been noted for many years.
33. Therefore, the tribunal made no adjustment on the lighting issue.

Overgrown vegetation beyond the site perimeter

34. This issue relates to vegetation beyond the perimeter fence in the area of the path between the reception area and allotments. It is common ground that the land in question is owned by the Applicant. Sub-paragraph (aa) of paragraph 18(1) does extend to '*adjoining land which is occupied or controlled by the owner*'. It was clarified by the Respondents that the Applicant is now maintaining this area, using the same company as sprays the kerbs on the site for weeds. However, the Respondents state that the Applicant has not maintained the area in the past. On one occasion a resident had done some maintenance work but this had been on a one-off basis.
35. In deciding whether an RPI increase in pitch fee would be unreasonable under paragraph 20A1, the tribunal was required to have regard to paragraph 18, the most relevant provisions being sub-paragraphs 18(1)(aa) and (ab). The tribunal did not accept on the evidence before it that there had been any deterioration in condition or decrease in amenity, nor a reduction in any service since the Applicant had never previously maintained the area in question.
36. No adjustment was made on this issue therefore.

State of the phase 9 land

37. This issue related to a tarmac area upon which soil/clay had been deposited in the course of the development of other parts of the site. This had become an issue in 2021 with weeds growing unabated. In the same area the mesh enclosure used many years previously for gas bottles had become overgrown by weeds. Additionally, there had been an issue with a site compound in this area which had been moved at the request of residents.
38. The Applicant clarified that the area in question was the site for phase 9 of the overall site development. The clay soil deposited had been from an earlier phase of the development and was intended to raise the land forming the phase 9 site. The former tarmac area had historically been used for caravan sales and this was effectively being buried, and punctured to allow water penetration.
39. The tribunal considered that there appeared to be no reason why the unsightly mesh formerly housing gas supplies could not be moved, however this had been an issue for many years, albeit with increased weed growth more recently, and did not represent a significant deterioration in condition or detriment to amenity within the meaning of sub-paragraph (aa). It did not seem reasonable to expect the Applicant to arrange for landscaping work or to expend money on an area of land which was effectively being built up to form the next phase in the development of the overall

site. The issues were more in the nature of site development, rather than maintenance.

40. For these reasons the tribunal made no adjustment in relation to the depositing of soil/clay and the growth of weeds at the intended site of phase 9.

Issues with standing water

41. These issues can be divided into two categories. First, the issues raised above in relation to the phase 9 site have additionally resulted in the pooling of water which blocks an important pedestrian entrance/exit serving the site. Second, there is a general issue with the pooling of water following rainfall across the site.
42. On the latter issue, whilst the parties differ on the time taken for standing water to dissipate following rainfall, it is common ground that the issue is a longstanding one, and attributable to the clay soil on which the site is built. The Applicant described drainage measures to roads within the site and stated that the park home owners' choices as to surface treatment (turf, astro-turf and gravel) along with any additions such as porches were relevant to the time taken for water to disperse. Mr and Mrs Warren had experienced particular issues with surface water that had been addressed eventually.
43. On the general issue of standing water across the site it was common ground that the issue was not a new one, the fundamental problem was the soil type and this had not changed. The tribunal made no adjustment on this particular issue therefore since there was no evidence of deterioration or detriment within the meaning of sub-paragraph (aa).
44. The tribunal considered the phase 9 issues to be significant however. The depositing of soil in the course of the development had caused flooding which rendered the pedestrian access at that part of the site inaccessible. The issue arose from 2022 and whilst precise records were not available, the tribunal accepted that there had been access problems for 3-4 weeks in November 2022 and previously throughout 2022 for periods of weeks following heavy rainfall. The situation had worsened - at the time of the hearing the access had been totally out of action since 19/9/2023.
45. The tribunal accepted the Respondents' statement that the pedestrian access was effectively a short-cut for leaving the site for most pedestrian purposes and that the alternative involved walking a long way round using the main entrance and a well used and badly lit public road. Given that the site had only the two entrances/exits, and the pedestrian one was so convenient, the tribunal considered it to be a significant loss of amenity of the site for this to be out of action for periods of weeks in the year preceding the review date of 1/1/2023.
46. On the evidence before the tribunal the dumping of clay/soil had resulted in the flooding to the footpath and it was unreasonable for the Applicant's development works to be conducted in a manner that resulted in this loss of amenity. It would have been reasonable to expect access to have been maintained. The access issue represented a deterioration in condition and decrease in amenity within the meaning of sub-paragraph (aa).

47. For this reason, the tribunal considered that it would be unreasonable to increase the pitch fee by the full RPI percentage. A reduction in the 12.6% RPI increase equivalent to 15% of that increase was determined to be reasonable and appropriate.
48. The Applicant's representative raised the issue in the course of the hearing that the various issues under consideration by the tribunal had not each been raised in the written submissions of each of the Respondents. This was the case here, not every Respondent had raised the issue of standing water.
49. Nevertheless the tribunal considered it to be in the interests of fairness and justice to allow the Respondents' representatives to raise the issue at the hearing on behalf of all of the Respondents since the standing water issue and consequential limitation to site access affected all of the occupiers of the site, the Applicant was aware that the matter was in issue in the proceedings, the Applicant had had the opportunity to submit documentary evidence and those attending on behalf of the Applicant were able to speak to the issue in the hearing.

Determination

21. Overall, therefore the tribunal Ordered that the pitch fee for each of the Properties shall be increased at the review date of 1 January 2023 by a percentage of 10.71%. This represents the RPI increase provided for in paragraph 20A1 of Chapter 2 less a discount of 15% of the RPI increase determined by the tribunal having regard to the provisions of paragraph 18, Chapter 2 to Schedule 1 of the Act.

S Moorhouse

Tribunal Judge

Schedule

Respondents

12, 52, 96, 101 and 107 Hazelgrove Park, Milton Street, Saltburn-by-the-Sea, Cleveland TS12 1D

No. 12	Mr Raymond Taylor and Mrs Mary Littlefair	MAN/ooDA/HNA/2023/0188
No. 52	Mrs Vera Smith	MAN/ooDA/HNA/2023/0189
No. 96	Mr Albert Howard Lamb and Mrs Margaret Lamb	MAN/ooDA/HNA/2023/0190
No. 101	Mrs Sandra Brewer	MAN/ooDA/HNA/2023/0191
No. 107	Mr Ian Jones and Mrs Pamela Jones	MAN/ooDA/HNA/2023/0192

173, 174, 187 and 195 Hazelgrove Park, Milton Street, Saltburn-by-the-Sea, Cleveland TS12 1FA.

No.173	Mr David Spencer and Mrs Lesley Spencer	MAN/ooDA/HNA/2023/0193
No. 174	Mr James Warren and Mrs Carol Warren	MAN/ooDA/HNA/2023/0194
No. 187	Mrs Valerie Grainger	MAN/ooDA/HNA/2023/0196
No. 195	Mr Michael Goodyear and Mrs Carolyn Goodyear	MAN/ooDA/HNA/2023/0195