



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

Case Reference : **MAN/00EW/PHI/2023/0401, 0402, 0403, 0404**

Property : **9, 16, 42 and 43 Cheshire Park Homes, Chester Road, Dunham on the Hill WA6 0NU**

Applicant : **GRANGE PARK HOMES LLP**

Respondents : **(1) MR B WILTON-KING
(2) MR P CAIN
(3) MR J DZIKOWSKI
(4) MR J J MOSS**

Type of Application : **Determination of Pitch Fee, paragraph 17(4), Schedule 1, Mobile Homes Act 1983**

Tribunal Members : **Tribunal Judge A M Davies
Tribunal Member A Davis MRICS**

Date of Decision : **18 April 2024**

DECISION

1. The pitch fee payable by each of the Respondents for the year ending 31 July 2022 is as follows:
- | | £ per month |
|----------------------|-------------|
| (1) Mr B Wilton-King | 101.48 |
| (2) Mr P Cain | 183.75 |
| (3) Mr J Dzikowski | 107.28 |
| (4) Mr J J Moss | 144.34 |

REASONS

BACKGROUND

1. On 31 May 2023 the Applicant served on the Respondents notices of increase of their respective pitch fees, for the pitches they occupy at Cheshire Park. The Applicant proposed an increase of 11.4% over the previous year's pitch fee, that percentage being the RPI increase applicable to the pitch fee review date, 1 July 2023.
2. The Respondents objected to pay the increase and the Applicant applied to this Tribunal pursuant to paragraph 17 (4) Chapter 2, Schedule 1 to the Mobile Homes Act 1983 ("the Implied Terms") for a determination of the pitch fees payable for their pitches for the year ending 30 June 2024.

THE LAW

3. Paragraphs 18 and 20 of the Implied Terms govern pitch fee reviews and the matters to be taken into account if a pitch fee increase is not to reflect simply any increase or decrease in the RPI since the last review. So far as relevant they read:

"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) which are for the benefit of the occupiers of mobile homes on the protected site; [and]

(ii) which were the subject of consultation in accordance with paragraph 22E and (f) below;.....

(aa) any deterioration in the condition, and any decrease in the amenity of the site or any adjoining land since [26th May 2013] (insofar as regard has not previously been had to that deterioration or decrease for the purposes 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 [26 May 2013] (insofar as regard has not previously been had to that reduction or deterioration for the purposes of this subparagraph;....

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 [RPI]”.

4. How the Tribunal is to determine what might constitute an “unreasonable” change in the pitch fee was considered by the Upper Tribunal in *Vyse v Wyldecrest Parks (Management) Ltd* [2017] UKUT 24 (LC). Her Honour Judge Alice Robinson stated at paragraph 23 of her judgement “The overarching consideration is whether the [Tribunal] considers it reasonable for the pitch fee to be changed; it is that condition....which must be satisfied before any increase may be made (other than one which is agreed). It follows that if there are weighty factors not referred to in paragraph 18(1) which nonetheless cause the [Tribunal] to consider it reasonable for the pitch fee to be changed, the presumption in paragraph 20(1)...may be displaced.” She continued at paragraph 50: “This [factor] must be a factor to which considerable weight attaches.... Of course, it is not possible to be prescriptive as to precisely how much weight must be attached to an “other factor” before it outweighs the presumption in favour of RPI... What is required is that the decision maker recognises that the “other factor” must have sufficient weight to outweigh the presumption in the context of the statutory scheme as a whole.”

RESPONDENTS’ OBJECTIONS

5. The Respondents’ objections were supplied to the Tribunal in writing with supporting documents including photographs. The Tribunal made its decision on the basis of these and the Applicant’s written representations in reply. The Tribunal did not visit Cheshire Park.
6. The four Respondents made a single case to the Tribunal.

7. Each of the objections is considered below in relation to the year prior to the pitch fee review date, ie 1 July 2022 to 30 June 2023.
8. Trees: Generally, the Respondents said that maintenance of Cheshire Park is *ad hoc*, and not subject to any methodical regime. Specifically tree branches had been permitted to grow over roadways and paths and were not regularly trimmed. The Applicant replies that the trees on site are monitored and pruned as required. For example, there had been some cutting-back undertaken in July 2023. The Respondents say that this work only affected trees bordering pitch 16, and that other trees on the park remain overgrown.
9. The Tribunal does not find the photographs supplied persuasive of a serious problem relating to trees on or near the site. One of the photographs shows an affected pathway but it is unclear whether the path is within a pitch, or is a common accessway. Moreover, the photograph believed to show the entrance to the Park does not indicate a noticeable encroachment by adjacent trees.
10. Maintenance of fences: The Respondents say that a wooden fence erected in 2015 has not been maintained since then, but there is no indication as to where this fence is, and no photograph is supplied. The Respondents also complain about the lack of maintenance of a boundary structure made of concrete panels, originally painted white. One of the horizontal panels has fallen, the Respondents say some time ago, and has not been replaced. They say that the broken fence may represent a security risk. The photographs show that the paint on the panels is in a poor condition. The Applicant replies that this does not represent a deterioration in the condition of the Park, and is not a weighty factor justifying a variation in the RPI presumption.
11. The Tribunal considers that the condition of the fence has deteriorated. There is no suggestion that this has previously been taken into account at rent reviews. However the deterioration does not directly affect the Respondents' occupation of the site and on its own would not justify departing from an RPI equivalent increase in the pitch fees.

12. Grit boxes: The Respondents have provided photographs of a grit box containing grit that has solidified. They say that of three boxes on site, one is empty and one contains unusable solidified grit. Consequently, they say, walking around the Park is dangerous when the tarmac roads are icy. The Applicant says that the grit supplied is adequate, that no complaints were received and that no accidents were reported.
13. The Tribunal finds that the lack of useable grit in the boxes is a deterioration in the amenities provided to the park home owners.
14. Drainage system: The Respondents rely on a report from Metro-Rod dated 2010 which states that the drainage pipes on the Park have an expected lifespan of about 30 years, and concludes “Almost all the drainage on this site is beyond repair”. The Respondents say that despite this “very little” remedial work has been carried out, and report that the Mr Ray of the Applicant has said to them that he does not consider it appropriate to replace the drains while they are still working. The Respondents do not allege that the drainage system does not work. The Applicant has produced copy invoices indicating cleaning of the system by Metro-Rod during 2022/2023 and says that no complaints have been received from the local authority.
15. The Tribunal finds that although the pipework may be in need of replacement in the near future, there is no evidence that as a working drainage system it was deteriorating or failing during the year in question.
16. Pitch 10: The Respondents have produced photographs of pitch 10 which show that at least at the date of the photograph the pitch was not being maintained or gardened to the standard normally achieved by park home owners. The pitch is owned by the Applicant, and let on terms that require the tenant to maintain it. The Respondents say that the pitch is an eyesore and the Applicant should ensure that the tenant keeps it tidy.

17. The Tribunal finds that the condition of pitch 10 is the responsibility of the Applicant who should ensure that its tenant keeps it tidy. At the time the photograph was taken the area immediately around the park home was neglected. The Respondents are entitled to take a pride in the condition of the Park on which they have chosen to live. It is reasonable to suppose that there has been a deterioration in the condition of pitch 10 which marginally impacts on the condition of the Park generally.
18. Electricity meter cabinet: The Respondents produced a photograph of the inside of an electricity meter cabinet in which the roof had been patched with a piece of chipboard held in place by a wooden prop and other patching material. They say that the structure had become dangerous due to possible or actual ingress of water. The Applicant says that the cabinet (of which it appears there are 5 on the Park) was locked and inaccessible to the residents. Further, the damaged cabinet was only reported to the Applicant in July 2023 and was repaired in August 2023. The Applicants deny that the cabinet was locked. The Tribunal notes that the photograph was taken in August 2023.
19. The condition of the cabinet has clearly deteriorated since. The Tribunal is unable to make a finding as to whether this represented a direct safety risk to the Park residents, but the disrepair could have affected the electricity supply and was clearly undesirable.
20. Fire-fighting equipment: The Respondents have produced undated photographs of a red box on the Park, the lid of which has become displaced. They say that the fire-fighting equipment it contains is no longer fully weather-protected. The Applicants say that the Park's fire safety system was checked in August 2022 and have produced an invoice from FireSafe. At that time there was no indication from the inspector that the housing was inadequate.
21. The Tribunal notes that there appears to have been a deterioration in the condition of the fire-fighting equipment housing.

22. On-site manager: The Respondents say that there was a full time on-site manager or warden at least intermittently from 1993 to 2006, but that the present arrangement is for residents to call Mr Ray, one of the Applicant's partners, in the event of any difficulty. They say that this is unhelpful when, for example, he may be on holiday abroad. The Applicant says that there is no deterioration in the level of service, as there has been no manager on site since before May 2013.
23. The Tribunal notes a photograph giving the telephone numbers of three people to whom residents can apply when necessary. As there has been no manager on site since before May 2013, there has been no deterioration in the level of service. It does not follow from this, however, that the Park is being competently managed.

DISCUSSION

24. None of the Respondents' objections on its own represents a reason to depart from the statutory presumption of a pitch fee increase in line with the RPI increase for the previous year. On the other hand, the Applicant has not shown why that statutory increase should be considered reasonable.
25. The Tribunal finds that Cheshire Park is lacking in adequate supervision and maintenance. The Respondents' objections and the Tribunal's findings, taken together, indicate a park in which the owner takes little interest beyond responding to some of the complaints received from residents. There is no pro-active regime of inspection and maintenance to ensure that the Park is at all times a safe and attractive place to live.
26. Taking into account the items of disrepair and deterioration noted in this decision insofar as they were present prior to 1 July 2023, the Tribunal concludes that the demonstrated lack of care on the part of the Applicant amounts to a "weighty factor" which should be reflected in the pitch fees paid by the Respondents. It is reasonable to increase the pitch fee, but the presumed statutory increase (11.4%) should be reduced by 15%. The result is that an increase of 9.7% has been applied to each of the Respondents' pitch fees for the year in question.



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Date of Decision : **18 April 2024**

Date of Correction : **3 May 2024**

CORRECTION CERTIFICATE

This is a certificate under the powers conferred on the Chairman of the Tribunal by Rule 50 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 to correct clerical or accidental errors that have been discovered in the abovementioned Decision. The corrections to be made are:

On Tribunal Decision dated , the first sentence refers to the year ending 31 July 2022.

However, this is incorrect and should be “the year ending 30 June 2024”.

Judge A Davies
3 May 2024