



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

<b>Case Reference</b>	MAN/00EQ/PHI/2023/0021
<b>Property</b>	Meadow Park House, Badcocks Lane, Spurstow, Tarporley CW6 9RT
<b>Applicant</b>	Charles Webb Homes Limited
<b>Representative</b>	-
<b>Respondent</b>	Various Occupiers (see annex)
<b>Representative</b>	
<b>Type of Application</b>	Determination of a new level of pitch fee under the Mobile Homes Act 1983
<b>Tribunal Members</b>	Judge Rachel Watkin Surveyor Member – Ian James MRICS
<b>Date and Venue of Hearing</b>	7 September 2023 – County Court at Chester
<b>Date of Decision</b>	13 October 2023

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**DECISION**

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## **Decision**

The Tribunal determines that the pitch fees in respect of the 14 properties subject to this application may be raised by 14.2% with effect from 1 February 2023 in accordance with the notices as served by the Applicant on 19 December 2022

## **The Application**

1. The Applicant, Charles Webb homes limited, is the proprietor of (the “Site”)
2. The Respondents are the occupiers of the pitches on the Site.
3. The Applicant applies under paragraph 16 of Chapter 2, Part 1 of Schedule 1 to the Mobile Homes Act 1983 As Amended By The Mobile Homes Act 2013 (“the Act”) for determination of the appropriate level of pitch fee increase for various properties situated on the Site.
4. The Respondents opposed the fee increase on the various grounds detailed below.
5. The parties were unable to produce copies of the written statements governing the occupation of the Site. However, it was common ground that the standard implied terms contained in Chapter 2 of Schedule 1 of the Act apply.
6. It is also accepted that the review date is 1 February and that the last review had been in February 2022.
7. On 27 May 2023, Mr Gordon Whitehead provided to the parties and the Tribunal a signed list of all of the Respondents confirming that they requested that he represents them in the case before the Tribunal.

## **The Law**

8. The definition of “pitch fee” is set out at paragraph 29 of schedule 1 of the Act as follows:

*“pitch fee” means the amount which the occupier is required by the agreement to pay to the owner for the right to station the mobile home on the pitch and for use of the common areas of the protected site and their maintenance, but does not include amounts due in respect of gas, electricity, water and sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts;*

9. Provisions in respect of pitch fees are set out at paragraph 16 to 20 and 25A of Schedule 1.
10. These provide as follows:
  - 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.*
  - 17
    - (1) *The pitch fee shall be reviewed annually as at the review date.*
    - (2) *At least 28 clear days before the review date the owner shall serve on the occupier a written notice setting out his proposals in respect of the new pitch fee.*
    - (3) *If the occupier agrees to the proposed new pitch fee, it shall be payable as from the review date.*
    - (4) *If the occupier does not agree to the proposed new pitch fee—*
      - (a) *the owner [... the occupier] may apply to the [appropriate judicial body] for an order under paragraph 16(b) determining the amount of the new pitch fee;*
      - (b) *the occupier shall continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by the [appropriate judicial body] under paragraph 16(b); and*
      - (c) *the new pitch fee shall be payable as from the review date but the occupier shall not be treated as being in arrears until the 28<sup>th</sup> day after the date on which the new pitch fee is agreed or, as the case may be, the 28<sup>th</sup> day after the date of the [appropriate judicial body] order determining the amount of the new pitch fee.*
    - (5) *...*
  - 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;*

- (ii) *which were the subject of consultation in accordance with paragraph 22(e) and (f) below; and*
- (iii) *to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the [appropriate judicial body], on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;*

(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 (in so far 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 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);]*

(b) .....

(ba) *... any 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;*

*and*

(c).....

(1A) *But... no regard shall be had, when determining the amount of the new pitch fee, to any costs incurred by the owner since the last review date for the purpose of compliance with the amendments made to this Act by the Mobile Homes Act 2013.*

(2) ..

19 ...

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 retail prices 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.

(A2) In sub-paragraph (A1), “the latest index”—

(a) in a case where the owner serves a notice under paragraph 17(2), means the last index published before the day on which that notice is served;

(b) in a case where the owner serves a notice under paragraph 17(6), means the last index published before the day by which the owner was required to serve a notice under paragraph 17(2).

## Relevant Case Law

11. Whilst paragraph 20(1A) was amended by the Mobile Homes Act 2013, it was, in the main, set out within The Mobile Homes Act 1983 (Amendment of Schedule 1) (England) Order 2006 (SI 2006 No 1755) which largely recast Schedule 1 of the Act. Whilst at that time, the paragraph was known as paragraph 20(1), its content was largely the same as paragraph 20(1A) save for

12. The wording of paragraph 20(1) was considered in the case of ***Charles Simpson Organisation Limited v Martin Redshaw and Another [2010] 2514 (Ch)*** in which Kitchen J in the High Court stated:

“13. I consider that the words of paragraph 20(1) up to the word “unless” should be given their obvious and natural meaning. It is that the benchmark for a rise or fall in the pitch fees is the increase/decrease in the RPI since the ast (previous) review date. This is a clearly identifiable index whatever may be the factors that are used to arrive at the RPI. I am not concerned with the political/economic issues of whether it does or does not represent a true indicator of current inflation or, these days, even deflation. It is also clear that paragraph 20 treats this index as the prescriptive commencement point for the calculation of the new pitch fee. It is a presumption which applies “unless this would be unreasonable having regard to paragraph 18 (11).”

13. Kitchen J continued at paragraph 21 of his judgment:

“... the purpose of paragraph 20 is to provide a simple procedure for reviewing pitch fees for each year. Any change in the RPI provides a starting point for the determination of the appropriate increase or decrease in the pitch fee, but this may be departed from if it will produce an unreasonable result having regard to

*paragraph 18. This paragraph, it is to be noted, includes factors which may result in an adjustment by way of increase or decrease which is common in my judgment, more consistent with the change in RPI providing a starting point rather than a cap.”*

14. In **Vyse v Wyldecrest Parks (Management) Ltd** (2017) UKUT 24 (LC), Her Honour Judge Alice Robinson sitting in the Upper Tribunal referred to these words and stated *“I see no reason to depart from these obvious and clear words.”*
15. At paragraph 50 of her decision, HHJ Robinson also stated:

*“If there is no matter to which any of paragraph 18(1) in terms applies then the presumption arises and it is necessary to consider whether any “other factor” displaces it. By definition, this must be a factor to which considerable weight attaches. If it were a consideration of equal weight to RPI, then, applying the presumption, the scales would tip the balance in favour of RPI. 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. This must be a matter for the FTT in any particular case. 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.”*
16. Therefore, despite the reference in paragraph 20(1A) to the presumption being 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”* (emphasis added), it is clear that case law which is binding upon this Tribunal has found that the commencement point for any increase in the pitch fee is the RPI figure which is only to be departed from in the event that it would be unreasonable to do so on the basis set out in paragraph 18.
17. Furthermore, that the Tribunal should only consider other factors, beyond those referred to in paragraph 18, where they are of such considerable weight that they outweigh the presumption in favour of the RPI.
18. Therefore, in the present matter, the Tribunal is bound to accept that the appropriate increase in pitch fee is in line with the RPI figure, unless either any of the factors set out in paragraph 18 apply or any other factors that are of considerable significance exist.

## **The Application**

19. The Applicant submitted the Application to the Tribunal on 10 March 2023.
20. It is understood that the Applicant provided each of the Respondents with a Pitch Fee Review Form signed and dated 19 December 2022. The form used is the prescribed form as set out within The Mobile Home (Pitch Fees) (Prescribed Form) (England)

21. The Review Forms noted that the last review date was in February 2022 and proposed an increase per pitch of 14.2% based on the RPI for October 2022 of 14.2%.

### **Directions**

22. On 12 May 2023, the Application was considered by the Tribunal and a Directions Order made by Legal Officer, David Higham.
23. In compliance with the directions order, the Tribunal received the following documents:
  - a. Applicants Statement of Case;
  - b. Respondents' Statement of Case with attached documents;
  - c. Applicant's Reply to the Respondent's Statement of Case
24. The Applicant's statement of case was brief and factual, contending that the RPI figure (the increase in the RPI figure since the previous review date based on the figure published for October 2022) was calculated at 14.2% and that the burden of proof to persuade the Tribunal to depart from the presumption falls on the Respondents.
25. The Respondent's Statement of Case outlined a number of issues that they consider to result in a decrease in the amenity of the Site since the last review date. In the main, the Respondents concerns relate to matters that they consider to amount to a decrease in amenity or deterioration of the Site. These were summarised within the Applicant's Reply.
26. The Respondents also raise issues in relation to the lack of communication between the parties and the Pitch Fee Review Forms. it is understood that the Respondents now accept that the third pitch review form sent on 19 December 2022 is correct.
27. It is noted that the Respondents sought to negotiation a fee increase with the Applicant and suggested an increase of between 5-7%. The Respondents contend that as the Applicant is a service provider, rather than part of the retail industry, the Applicant is not as affected by the increase in retail prices and it should be disappplied. The Respondents also proposed a meeting by their letters of 16 December 2022, 2 January 2023, 16 January 2023, 18 January 2023, 24 January 2023. These invitation to meet were declined on 25 January 2023.

28. Whilst this issues of poor communication and refusal to engage are understandably disappointing to the Respondents, the Tribunal does not consider them to be either within s.18(1) of the Act or to carry “sufficient weight” to be otherwise considered as appropriate to result in any variation from the statutory presumption.
29. A large amount of correspondence has been provided that pre-dates the period between the previous review and the present review. This has been disregarded for the purposes of paragraph 18(1) as it is understood that this will have been taken into account within the previous review and is not of sufficient weight to otherwise be considered to have an effect on the application of the presumption. The other issues raised are considered further below.

## **Inspection**

30. The Tribunal inspected the Site during the morning of 7 September 2023 when it visited the Respondents’ pitches and viewed the Site generally.
31. In particular, the tribunal was shown the various features mentioned in the Respondent's submissions. These include, the entrance into the park, the adjacent boundary hedge, various drains, manholes, the estate lights, a vacant plot, grassed areas together with certain features which the Respondents considered to increase the risk of flooding to the park.
32. The tribunal's overall impression of the park was that it was attractive and well maintained. Of particular note to the Tribunal were certain manhole covers one which had corroded and another that was incorrectly seated and amounted to a tripping hazard. These were positioned closed to the boundary of the park near to conifer hedges.

## **The Hearing**

33. At the hearing, the Respondents agreed that Mr Whitehead would speak on behalf of all of them and they were all informed that they were permitted to pass messages to Mr Whitehead during the hearing, if they wished to do so. The Applicant was represented by Mr Clement of IBB Law LLP and Mr Mark Sutton was present as a witness on behalf of the Applicant.
34. Whilst the Tribunal notes that the Applicant seeks an increase for the full amount of



the RPI increase of 14.2%, whereas the Respondents contended for around 5-7% (letter to the Applicant dated 16 December 2022, at the hearing, the Respondent did accept that 14.2% is the correct calculation of the increase in RPI in accordance with paragraph 20.

35. The Tribunal considered the Statements of Case and heard from each party in relation to appropriate rate of the fee increase together with the following matters:
- a. Flooding
  - b. Soakaway Grids
  - c. Communal Lawns
  - d. Boundary Structures/Hedges
  - e. Trees
  - f. Roadway
  - g. The Park Entrance
  - h. Street Lighting
  - i. Condition of the Vacant Pitch
  - j. Resignation of the Former Manager.
36. The Tribunal invited submissions and, where necessary, heard evidence in relation to each of the following matters in turn:

### **Flooding**

37. Upon hearing from the Respondents, it was evident that the issues that they consider may exacerbate flooding problems to the Site were in existence prior to both the last review and the 2018 review and, therefore, had been previously considered in relation to the amount of the pitch fee.
38. In particular, the structures described as “sausages” which the Respondent’s considered to be of a particular issue were referred to within the 2018 Tribunal Decision.

## **Soakaway Grids**

39. The Tribunal were shown a number of soakaway grids on Site, it was not clear to the Tribunal at the inspection that the condition of the soakaways exacerbated the flooding issues. No further evidence was provided of this, and no evidence was provided to show that flooding was worse than it had been in previous years. It is noted that the Tribunal recorded in 2018 that the parties accepted that the Site was prone to flooding.
40. It was noted that there were two manhole covers that were of particular concern. Both were hazardous. One was so significantly corroded that it could have caused an injury to anyone who may have had cause to tread on it and the other posed a tripping hazard. However, it is noted that these were to the left of the carriageway adjacent to the hedge, in a position where they were less likely to have been traversed, particularly in view of the proximity of the refuse bins and the salt. Whilst these were of concern and may have deteriorated since the previous review, the Tribunal did not consider them to be so significant as to affect the pitch fees.

## **Communal Lawns**

41. The Tribunal members viewed the lawns during the inspection. They appeared to be attractive and well maintained. It is noted that the Respondents consider that the maintenance of the lawns are inadequate due to them not being properly treated and, therefore, containing a large amount of moss. The Tribunal concluded that the lawns were adequate for the purpose.
42. It is noted that the Respondents had previously raised concerns in relation to the condition of the grass. Based on the evidence provided, the Tribunal was unable to conclude that the condition of the lawns had deteriorated since the previous review or that the condition of the lawns was of any significance for consideration otherwise.

## **Boundary Structures/Hedges**

43. The main concern in relation to boundary structures appeared to be that the Applicant did not cut back the inside (pitch side) of the boundary hedges. The outside of the boundary hedges appeared to be kept sufficiently tidy.
44. It is noted that this issue was previously considered within the 2018 Decision of the Tribunal and the Tribunal was not provided with any clear evidence of any decrease in amenity in relation to the side boundary hedges/trees. The hedges were not

considered to be of sufficient weight to be considered otherwise.

## **Trees**

45. The Tribunal was notified about a tree in the grounds of a separately owned property that backs onto the Site and one of the pitches. It is understood that this issue is now resolved. However, it did not appear, to the Tribunal to be a deterioration that would affect the amenity of the Site nor a matter that was in the control of the Applicant.

## **Roadways**

46. The Tribunal accepts that the roadways are not perfect with some evidence of appropriate repairs. However, at the time of the inspection, they did appear to be in a satisfactory condition. No evidence of any decrease in amenity or deterioration was provided to the Tribunal and the Tribunal did not consider that they were of such a condition that they needed to be considered otherwise.

## **The Park Entrance**

47. The Tribunal were made aware that bark had been placed along the verges adjacent to the Site entrance and that there was some deterioration of the road surface close to the entrance. The boundary hedges in the vicinity of the entrance appeared to be well maintained.
48. The Tribunal does not consider the placing of the bark or the deterioration to the road surface to be of any material detriment to the Site.

## **Street Lighting**

49. The concerns raised in relation to the street lighting appeared to repeat some of the concerns raised in the 2018 review. This was accepted by the Respondents within the hearing and, therefore, it does not require further consideration. The Tribunal did not consider it to be material.

## **Condition of the Vacant Pitch**

50. The Tribunal was given the opportunity to view the vacant pitch referred to by the Respondents. The Tribunal declined to investigate the areas of the vacant pitch that were out of sight, behind hedges, as such areas could not affect the amenity of the Site for the purposes of the Respondents.

51. The Applicant states that the home previously positioned on the vacant pitch had been removed in September 2022. Therefore, after the previous review. The Applicant has indicated that a new park home has been purchased and will be stationed on the pitch in around November 2023. The Applicant advises that the pitch will then be refurbished and landscaped.
52. The Tribunal did not consider that the vacant pitch was, in any way, alarming or concerning and did not consider that the vacant pitch, in any way, caused any deterioration in the Site. It is inevitable that there will be vacant pitches from time to time.
53. Furthermore, the Tribunal were informed that the previous occupier of the pitch had not maintained the pitch and that a large amount of refuse had gathered on the pitch. Therefore, the removal of the previous home may have amounted to an improvement. It was not a matter that the Tribunal considered to be of sufficient weight to affect the pitch fees.

### **Resignation of the Site Warden**

54. The Respondents accepted, at the hearing, that the resignation of the warden in itself is not a matter that would affect the Pitch Fees.

### **DECISION**

55. As stated above, unless it is unreasonable for the pitch fees to be increased in accordance with the percent rise in the RPI figure for the reasons set out in paragraph 18 or other factors of considerable weight, the RPI figure shall be applied.
56. The parties agree that the correct RPI figure is 14.2%.
57. The Tribunal considers, for the reasons set out above, that:
  - a. there are no sums that have been expended on significant improvements since the last review date;
  - b. there has been no significant deterioration in the condition or amenity of the Site;
  - c. there has been no reduction or deterioration in the services such as would result in any reduction in the pitch fee;
  - d. there has been no enactment that has come into force which has had any

direct effect on the costs payable by the owner; and

- e. there are no other factors that could be considered of such sufficient weight to displace the presumption that the increase will be in accordance with the increase in the RPI.

58. Therefore, the Tribunal confirms that it is appropriate for the pitch fees to be increased at the rate of 14.2%, as set out within the Pitch Fee Review Forms.

### **Costs**

59. Neither party made any application to the Tribunal in respect of costs.

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### **Appeal**

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after these reasons have been sent to the parties under Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Judge R Watkin

Mr Ian James MRICS

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## SCHEDULE OF RESPONDENTS

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1. Mr J. Brittleton  
2 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
2. Mr J. Sheen  
4 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
3. Mr I. Jones  
5 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
4. Mr G. Moss  
6 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
5. Mr & Mrs J. Roberts  
7 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CE6 9RT
6. Mrs C. Docherty  
8 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
7. Mr D. Lawrence  
11 Meadow House Park  
Badcocks Lane  
Spurstow

Cheshire  
CW6 9RT

8. Mr & Mrs P. Horton  
12 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
  9. Mrs S. Hughes  
13 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
  10. Mr D. Prinsloo & Ms S. Kalnins  
14 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
  11. Mr & Mrs G. Whitehead  
23 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
  12. Mr G. Millington  
24 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
  13. Mrs M. Butler  
25 Meadow House Park  
Badcocks Lane  
Spurstow  
Cheshire  
CW6 9RT
  14. Mrs S. Watson  
17 Meadow House Park  
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