



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

Case Reference : **MAN/00EW/PHI/2023/0322**

Property : **3a Field Maple Avenue, Ashwood Park,
Marston, Northwich, Cheshire CW9 6RF**

Applicant : **Tingdene Parks Limited**

Respondents : **May Lydia Constable**

Type of Application : **Determination of new pitch fee under
schedule 1 of the Mobile Homes Act 1983**

Tribunal Members : **Mr J A Platt FRICS
Mr J Fraser FRICS**

Date of Decision : **5 December 2023**

DECISION

The Decision

1. The pitch fee payable by the Respondent with effect from 1 April 2023 is £2,314.80 per year.

The Background

2. This is an application under Part 1 of Schedule 1 of the Mobile Homes Act 1983 (“the Act”) for the Tribunal to determine the level of the pitch fee payable from 1 April 2023 in respect of 3a Field Maple Avenue, Ashwood Park, Marston, Northwich, Cheshire CW9 6RF (“the Pitch”).
3. The Applicant, Tingdene Parks Ltd., is the owner and operator of Ashwood Park (“the Site”) which is a licenced site under the Caravan Sites and Control of Development Act 1960 and is subject to the Act.
4. The Respondent, May Lydia Constable is the owner of the park home situated on the Pitch.
5. The Applicant served the Respondent with a notice dated 28 January 2023 purporting to increase the pitch fee with effect from 1 April 2023 from £2,041.32 per year to £2,314.80 per year. The notice was sent with a prescribed pitch fee review form. The Respondent does not take issue with the validity of the notice or the statutory process which has been followed.
6. The Tribunal issued Directions on 20 September 2023 stating that the application would be determined without a hearing subject to the right of any party to request a hearing. No such request was made. The Tribunal did not consider that an inspection was necessary. The Directions provided that each party should provide a statement of case setting set out their respective positions and produce any documents on which they intended to rely. The parties have complied with the directions and have provided the Tribunal with bundles of documents.

The Applicant’s Case

7. The application is to increase the pitch fee in accordance with the terms implied by the Mobile Homes Act 1983. Pitch fees can only be changed by agreement or by the Tribunal. The Respondent has objected to the proposed increase, leaving the Applicant to make an application to the Tribunal to determine the new pitch fee. The pitch fee was reviewed by reference to the Retail Price Index (“RPI”) at January 2023 which provides for an increase of 13.4%. There is a statutory presumption that the pitch fees shall increase (or decrease) annually in accordance with RPI.

The Respondents' Case

8. The Respondent's objections to the proposed increase are set out in her statement of case. Generally speaking, she has 4 objections:
 - a. Firstly, that when she purchased the park home in October 2018 she was advised that ground rent increases had always been low and future increases would only be made every two years.
 - b. Throughout her period of occupation the site has, in effect, been a construction site. It has been unfinished and, in particular the roads have not been completed.
 - c. There have been no improvements to the site.
 - d. The amenity area to the north of the site is overgrown and not maintained in accordance with the original planning application 'management plan'.

The Applicant's Response

9. The Applicant has provided a response to each of the Respondent's objections by way of a signed witness statement of Mr J M W Pearson, Group Director. Mr Pearson provides a 'history of the development of the site' and in particular, advises that development of the north-eastern corner of the site (where the Respondent's pitch is situated) has taken place over a period of eight or so years from 2014 to 2022 to provide an additional 70 pitches. He avers this was explained to all new residents on the new part of the development at the time of their purchases. He provides the following responses to each of the Respondent's objections:
 - a. A draft written statement was sent to the Respondent on 17 April 2018, some 6 months prior to completion of her purchase on 4 October 2018. Both the draft written statement and actual written statement advise that the pitch fee will be reviewed on 1 April each year and both refer to the statutory implied terms that the pitch fee will increase or decrease in line with the change in RPI.
 - b. A copy of the maintenance record for 2022 is provided. Mr Pearson avers that the base coat of the access road was perfectly safe for both vehicles and pedestrians and that it was appropriate not to lay the 'top-coat' until the last home had been sited (November 2022).

- c. The amenity area was only ever intended as a landscaped open space and following consultation with Ashwood Park Residents Association (recognised as a qualifying residents' association) and the local MP, it is currently being maintained as a 'wildlife area'.

The Law

10. 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 Act. 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. The pitch fee shall be reviewed annually as at the review date.
11. The owner serves on the occupier a written notice setting out the proposed new pitch fee. If it is agreed, the new pitch fee is payable from the review date. If it is not agreed, the owner may make an application to the Tribunal to determine the new pitch fee. Once decided, the new pitch fee is payable from the review date.
12. 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 and any decrease in the amenity of the protected site since the last review date. 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 RPI.
13. [The Mobile Homes (Pitch Fees) Act 2023 has replaced RPI with the Consumer Price Index ("CPI") as the relevant index for all pitch fee reviews after 2 July 2023. The amendment is not relevant to this case where the review date is 1 April 2023].
14. "*Pitch fee*" is defined in paragraph 29 of Part 1 of Chapter 2 of Schedule 1 of the 1983 Act as meaning "*the amount which the occupier is required to pay by the agreement to the owner for the right to station the mobile home [park home] on the pitch and for the 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*".

The Decision

15. The Tribunal is asked to determine the amount of the pitch fee payable from 1 April 2023. The fee proposed by the Applicant is shown in the notice dated 28 January 2023. The amount is calculated on the RPI applied to the existing pitch fee of £2,041.32 per year.

16. It is common ground that there have been no improvements to the site. The Applicant does not seek any increase in pitch fee (beyond RPI) to reflect any improvements. The Respondent does not really aver that there has been any decrease in amenity since the previous pitch fee review. The Respondent's case is, in effect, that she did not expect any increase in pitch fees until the site was completed, that the pitch fee should only be reviewed every two years and that any increase should be low.
17. The Respondent has provided no 'evidence' of being promised low, two-yearly increases in pitch fee. The Tribunal finds, as a matter of fact, that the terms of the written statement provide for the 'default' position of annual reviews in line with RPI.
18. The Act effectively freezes the site owner's pitch fee income in real terms. Prior to 2018 (and prior to 2022) pitch fee increases would indeed have been low due to the low levels of inflation at that time. The Tribunal finds that there has been no decrease in amenity of the site such as to warrant any variation from the default position that the pitch fee should increase in line with RPI.
19. The Tribunal determines that the pitch fee payable in respect of the Respondents' pitch from 1 April 2023 is £2,314.80 per year.

RIGHT OF APPEAL

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