



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

Case Reference : **MAN/00EM/PHI/2017/0004**

Property : **46 Bridgend Park, Brewery Road, Wooler,
NE71 6QG**

Applicant : **Wyldecrest Parks (Management) Ltd.**

Respondents : **Brian Ranft and Sandra Ranft**

**Type of
Application** : **Application for the determination of a new
level of pitch fee under paragraph 16 of
Chapter 2 of Part 1 of Schedule 1 to the Mobile
Homes Act 1983**

**Tribunal
Members** : **Judge P Forster
Mr J A Platt FRICS**

DECISION

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Decision

1. The notice of increase in the pitch fee dated 23 January 2017 was a valid notice.
2. The pitch fee shall be £165.40 per month from 1 March 2017.
3. No order for costs.

Background

4. The Tribunal received an application on 23 May 2017 from the Applicant, Wyldecrest Parks (Management) Ltd., to determine the pitch fee to be payable for 2017/18 by the park home owners at 46 Bridgend Park, Brewery Road, Wooler, Northumberland, NE71 6QG. The application was made under paragraph 16 of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (“the Act”).
5. Bridgend Park is a residential park home site. It is a protected site within the meaning of the Act. The Applicant acquired the site from its former owner on 14 March 2014. Bridgend Park is a relatively new development consisting of 75 plots of which 68 are occupied.
6. The application was opposed by the Respondents, Brian Ranft and Sandra Ranft, who are the owners of a park home on the site, 46 Bridgend Park. The site agreement between the Applicant and the Respondents dated 30 March 2008 is subject to the Act.
7. Directions for the conduct of the proceedings were given on 6 June 2017. It was decided that the application would be determined without a hearing unless either of the parties requested one to be held. The Tribunal carried out a site inspection on 4 August 2017 and then met to determine the application. Neither of the parties had requested a hearing.

The Applicant’s Case

8. The proposed pitch fee was calculated in accordance with the Act which presumes that the fee will increase annually by a percentage which is no more than any percentage increase in the Retail Price Index.
9. The pitch fee was £161.37 per month as agreed by the Respondents on 1 March 2016. It was adjusted by an increase of 2.5% (£4.03) to £165.40 using the RPI figure for December 2016 as published in January 2017 being the latest index available before service of the Pitch Fee Review Notice on 23 January 2017 which was 28 clear days before the review date on 1 March 2017. No other increase was proposed.
10. The application to the Tribunal was necessary because the Respondents refused to agree the new pitch fee. They are the only one of 68 owners to object to the increase.
11. The Applicant denied all the allegations made by the Respondents who alleged that there had been a reduction in the services and amenities available on the site.

The Respondents' Case

12. The Respondents opposed the proposed increase in the pitch fee because they alleged that some of the services and amenities on Bridgend Park have been removed or reduced since it changed ownership in March 2014. They want those services and amenities to be reinstated and rectified, and if not, the pitch fee to be reduced because of the Applicants failure to maintain the site to an acceptable standard. The Respondents submitted a list of 12 complaints:
- 1) a 24-hour security service and night watchman with a contact number have been removed;
 - 2) the CCTV system no longer operates;
 - 3) access to the former owner's clubhouse, with an adult only lounge and swimming pool has been removed;
 - 4) access to the former owner's Riverside Caravan Park facilities, river fishing rights and a trout lake has been removed;
 - 5) there was a dedicated, qualified and professional team to maintain the Park and communal gardens and this has been replaced by a pensioner who only works 16 hours a week with the result that there has been a significant decline in the standard of maintenance;
 - 6) the services provided by the Bridgend Park office which used to be open 7 days a week are now only available for 16 hours a week;
 - 7) an out of office hours emergency contact number has been withdrawn;
 - 8) the Applicant refuses to communicate with the recognised residents' association;
 - 9) the Applicant does not respond to requests for information;
 - 10) free parking that was available in the main car park, on the written approval of the former owner, for residents with caravans and motorhomes, has been withdrawn. The Applicant has imposed a charge for those facilities;
 - 11) the former owner allowed residents to pay their pitch fess, utility bills and other charges by a method of the park home owner's choice but the Applicant insists that payments are made by direct debit and makes a charge for payment by other means;
 - 12) the former owner maintained Bridgend Park to an acceptable standard. A pot hole in the car park is a tripping hazard and has not been repaired by the Applicant despite numerous requests to do so;

The Law

13. 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. As far as is relevant to the issues in this case:
 - 18 (1) When determining the amount of the new pitch fee particular regard shall be had to—
 - (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 subparagraph);
 - (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 subparagraph);
 - 20 (A1) In the case of a protected site in England, 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;

Reasons for the Decision

14. The Tribunal inspected Bridgend Park on 4 August 2017. The members of the Tribunal walked round the site with Mr Moore, the Applicant’s Area Manager, and Mr Ranft, one of the Respondents. The site is in a pleasant rural area, close to local amenities. The park homes are all relatively modern and well cared for each with a well-maintained garden.
15. The Respondents’ written statement dated 30 March 2008 incorporates the terms automatically implied into the agreement by the Act. The pitch fee will be reviewed on the 1st March each year. Plot 46 is identified by a plan. Additional charges are payable to the site owner for water, sewerage and electricity.

16. No technical point was taken by the Respondents about the review date or the notice of increase served by the Applicant.
17. Under paragraph 20 of Chapter 2 of Part 1 of Schedule 1 to the Act, there is a presumption that the pitch fee shall increase by a percentage which is no more than any percentage increase or decrease in the Retail Price Index since the last review date, unless this would be unreasonable having regard to paragraph 18(1).
18. The Respondents' objection to the proposed pitch fee is based on paragraph 18(1), namely that there has been a decrease in the amenity of the protected site since the last review date.
19. The word 'amenity' is capable of both wide and narrow construction. In order to determine which is correct in a particular circumstance, it is necessary to look to the context in which it is used. When considering the amenities of a residential area, whilst these may include areas of open space, gardens or woodlands, they are not confined to theseⁱ. The term 'amenity' is apt to include adequate and convenient access to services and includes appropriate standards for design, open space, accessibility, safety, sustainability and the provision of associated services. Such amenities should be distinguished from the features of a house, or in this case, a park home, considered in or by itself.
20. The amenities to be provided on Bridgend Park are not defined by the site agreement between the Applicant and the Respondents. The amenities on the site are easily distinguished from the services to be provided by the Applicant. Those services are expressly identified in the site agreement and the Applicant is obliged to provide them and the Respondent to pay for them as additional charges for water, sewerage and electricity.
21. The Tribunal considered each of the Respondents' 12 complaints:
 - 1) a 24-hour security service and night watchman with a contact number have been removed. This was a service provided by the previous owner, North Dales LLP. but it was under no obligation to do so. A benefit that was enjoyed under the tenure of the previous owner has been lost but the Respondents have no contractual right to demand that they be provided by the Respondent. There has been no reduction in the services which the Respondent is contractually obliged to provide.

Many of the Respondents' complaints stem from a comparison between the previous owner and the Applicant. Bridgend Park was part of a larger site in Wooler. When North Dales LLP. sold Bridgend Park to the Applicant it retained the other part of the site and with it many of the facilities that had been available to residents on Bridgend Park. Those facilities are no longer available for their use. Those facilities were provided by the previous owner without charge.
 - 2) the CCTV system no longer operates. As with the security system and night watchman, this was a service provided by the previous owner which the Respondent is not required to provide under the site agreement.

- 3) access to the former owner's clubhouse, with an adult only lounge and swimming pool has been removed. The former owner, as a concession, allowed the residents of Bridgend Park along with the residents of the other part of the site, to use that amenity and the facilities that it offered but it was under no contractual obligation to do so. The Applicant cannot provide the same facilities because it does not own the clubhouse on the adjacent site. The clubhouse and its facilities are no doubt still available to the Respondents if they are willing to pay for them.
- 4) access to the former owner's Riverside Caravan Park facilities, river fishing rights and a trout lake has been removed. As with access to the clubhouse, the Applicant cannot provide these amenities and services because it does not own them and is not under a contractual obligation to provide them.
- 5) there was a dedicated, qualified and professional team to maintain the Park and communal gardens and this has been replaced by a pensioner who only works 16 hours a week with the result that there has been a significant decline in the standard of maintenance. This was essentially a complaint about the standard of maintenance on the site.

The Tribunal observed a well presented and maintained site. It was evident that some work had been carried out shortly before the inspection. The Tribunal can only have regard to the condition of the site on the day of the inspection. Mr Ranft made the observation, that if nothing else the Tribunal's visit had got the Applicant to do some work.

The pleasant and well-maintained grounds that the Tribunal saw had not been achieved overnight. The very demanding standard expected by the Respondents is well illustrated by the photographs which they presented. Photographs of the west side communal areas before work was carried out show a verge that was overgrown but not falling over the fence and onto the roadway. The verge had been trimmed back by the date of the inspection. Another example, are the photographs of the eastern boundary hedge. One photograph shows on the right, part of the hedge trimmed back and on the left as it was. Mr Ranft described the condition of the hedge on the left as unacceptable. The Tribunal saw the hedge that was in the photographs and found that it was in an acceptable state. Mr Ranft preferred the manicured section of hedge to the untrimmed branches.

The Tribunal found that the maintenance of the site was to a good standard. There was no decrease in the amenity of the site to the residents.

- 6) the services provided by the Bridgend Park office which used to be open 7 days a week are now only available for 16 hours a week. The more limited opening hours is a reduction in the level of service. The Tribunal found that it was unlikely that the residents had need to use the office regularly and if they did need to contact the Applicant they could do so by telephone. Any reduction in service was minimal and did not justify any reduction in the pitch fee.
- 7) an out of office hours emergency contact number has been withdrawn. The Tribunal observed that a telephone number was displayed on a notice on the door to the site office.

- 8) the Applicant refuses to communicate with the recognised residents' association. The relationship between the Applicant and the Respondents is not very good. That was evident from the strained relations between Mr Moore and Mr Ranft as they accompanied the Tribunal round the site. The Applicant has not refused to communicate with the resident's association but it has restricted its contact with the Respondents by asking them to send letters and not emails. As regrettable as this situation is, it cannot be regarded as either a reduction in amenity or services to the park home residents.
- 9) the Applicant does not respond to requests for information. The Applicant does not respond to requests for information as the Respondents would like. That is not a reduction in amenity or services to the park home residents as a whole.
- 10) free parking that was available in the main car park, on the written approval of the former owner, for residents with caravans and motorhomes, has been withdrawn. The Applicant has imposed a charge for those facilities. The former owner allowed park home residents to use the car park for that purpose without charge. The Applicant is not under a contractual obligation to do likewise.
- 11) the former owner allowed residents to pay their pitch fess, utility bills and other charges by a method of the park home owner's choice but the Applicant insists that payments are made by direct debit and makes a charge for payment by other means. This cannot be classified as an amenity. Nor cannot it be properly considered to be a service to the park home owners.
- 12) the former owner maintained Bridgend Park to an acceptable standard. A pot hole in the car park is a tripping hazard and has not been repaired by the Applicant despite numerous requests to do so. The pot hole was filled in shortly before the Tribunal's inspection. It could be regarded as a reduction in amenity but the problem had been resolved. Any loss would have been minimal and as such would not justify a reduction in the pitch fee.
22. The Tribunal was not satisfied that any of the Respondents' complaints gave rise to a loss of amenity or reduction in service that supported a reduction in the pitch fee.
23. The Tribunal determined that it would be reasonable for the presumption in paragraph 20 to apply, that the pitch fee should be increased by a percentage which is no more than any percentage increase in the Retail Price Index.
24. The Tribunal had regard to the Retail Prices Index. Under the notice of increase dated 23 January 2017 the pitch fee was increased by reference to the RPI figure for January 2017 which was 2.5%. That amounts to £4.03 per month. The Tribunal decided that the pitch fee payable by the Respondents from 1 March 2017 should be £165.40 per month.

Costs

25. The Tribunal has jurisdiction under rule 13(1)(b) of the 2013 rulesⁱⁱ to make an order in respect of costs if a party has acted unreasonably in bringing, defending or conducting proceedings in a residential property case which includes a case under the Mobile Homes Act 1983. The Applicant asked the Tribunal to make a costs order against the Respondents on the grounds that they acted unreasonably. The Applicant took issue with the Respondents submission of additional evidence and their attempts to “try and run a trial by correspondence, moving away from the purpose of this Application...”. Even after the inspection, the Respondents made further written submissions.
26. The Tribunal has upheld the Applicant’s case and found against all the Respondents’ twelve complaints. Many of those complaints were not on the point of the proposed increase in the pitch fee. In this jurisdiction, an award of costs does not follow the event, the winner does not automatically get its costs from the loser. The Tribunal did not find that the Respondents’ conduct of the proceedings crossed the threshold of reasonableness. The Respondents were unfamiliar with Tribunal procedure and sought to advance their case as best they could. That may have caused the Applicant to incur extra time and expense but it cannot be considered to be unreasonable conduct. The Tribunal did not make an order for costs against the Respondents.

ⁱ Stroud’s Judicial Dictionary 9th edition

ⁱⁱ Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013