



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

Case Reference : **BIR/00GA/PHI/2016/0018**

Property : **65 Linton Park, Worcester Road,
Bromyard, Herefordshire HR7 4DB**

Applicant : **Country Parks Ltd**

Representative : **Tozers, Solicitors**

Respondent : **Mr R & Mrs N Moses**

Representative : **None**

Type of Application : **Application by site owner for
determination of a new level of pitch
fee under paragraph 16 of Schedule 2
Part 1 of the Mobile Homes Act 1983
("the Act").**

Tribunal Members : **Judge C Goodall LLB
Mr I D Humphries B.Sc.(Est.Man.) FRICS**

Date of Decision : **27th April 2017**

DECISION

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Background

1. Linton Park is a mobile homes site in Bromyard, Herefordshire registered for sixty-eight mobile homes, and owned by Country Parks Ltd (“the Applicant”).
2. On 25 February 2016, the Applicant served notice upon the occupiers of Linton Park of a pitch fee review to operate from 1 April 2016.
3. On 20 June 2016, the Applicant applied to the Tribunal for a determination of the pitch fee payable by eighteen occupiers at Linton Park under Paragraph 16 of Schedule 2 of Part 1 of the Mobile Homes Act 1983 (as amended) (“the Act”). It is assumed that these occupiers (as is their right) did not confirm agreement to the pitch fee review, which triggered a requirement for the Applicant to apply to the Tribunal for it to be determined, if they wished to obtain the benefit of a pitch fee review.
4. By a direction dated 6 October 2016, the Tribunal directed that one of the occupiers should be designated as lead respondent under the provisions of Rule 23 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the Rules”), and further directing that all other cases be stayed. In fact, that lead respondent declined to act as such, and the Tribunal therefore directed, on 3 November 2016, that Mr & Mrs Goddard should be substituted as lead respondent.
5. On 17 February 2017 the Tribunal issued a determination in Mr & Mrs Goddard’s case (“the Lead Case”).
6. Mr and Mrs Moses (“the Respondents”) occupy the pitch referred to on the front page of this decision. Following the conclusion of the Lead Case, the Tribunal removes the stay on this case. This decision is the determination of the pitch fee payable for 2016/17 by the Respondents.
7. Rule 23 of the Rules provides that the decision in the Lead Case shall be binding upon the related cases in respect of common or related issues unless, within 28 days of the decision in the Lead Case, any party applies in writing for a declaration that the decision is not to be binding.
8. The issues determined by the Tribunal in the Lead Case were:
 - a) Country Parks Ltd must insert the correct current pitch fee in section 2 of their form proposing a new pitch fee. They did not do so in the Lead Case, and therefore their proposal for a new pitch fee for the 2016/17 pitch fee was invalid in that case (**Issue 1**).
 - b) In the Lead Case, the Goddard’s however failed in their argument that Country Parks Ltd were not entitled to include a fixed contribution of

£40.64 per pitch per annum for river-banking and street lighting works carried out in 2005. Any site owner who agreed in 2006 (however unwillingly) to pay the costs requested for work to the river bank and street lighting has in effect agreed to a variation of the pitch fee as from that year, and is now legally bound to pay a pitch fee each year until 31 March 2021 which includes the sum of £40.64 (**Issue 2**).

- c) A one-off payment of £4.53 per pitch could be included in the pitch fee for 2016/17 as a contribution towards improvements towards the security costs of the site (**Issue 3**).
 - d) In principle, the annual site licence fee in effect included in the pitch fee each year as once included (as it was in 2015/16) it becomes a permanent addition to the pitch fee and can generally increase year on year by inflation (as defined in the Act). In fact, for 2016/17, Country Parks Ltd were seeking a payment of £22.58 per pitch (which was lower than the pitch fee included in the previous year) which Mr & Mrs Goddard agreed. The Tribunal would have determined this was payable if it had not been agreed (**Issue 4**).
9. By a letter dated 15 February 2017 the Respondents were notified of the decision in the Lead Case and were provided with a copy of that decision. The Respondents were informed of the requirements of Rule 23 and the need to inform the Tribunal within 28 days if they wished to apply for a direction that the decision in the Lead Case should not be binding in their case.
10. By letter dated 3 April 2017, the Applicant's solicitors have informed the Tribunal that this case falls within the category of cases where the Applicant now accepts that the correct current pitch fee was not inserted into the Notice of Increase for 2016/17. This means that the Respondents will have the benefit of the determination made by the Tribunal on Issue 1 in the Lead Case.
11. The Tribunal is not aware of any issues raised by the Respondent that were not common or related issues as identified above.

Decision

12. The Tribunal determines that it is not reasonable for the pitch fee for 2016/17 to be changed in this case as the notice to do so is invalid for lack of clarity and because incorrect information was inserted into the prescribed form. The pitch fee for 2016/17 remains the same as the pitch fee for 2015/16 except in so far as the Respondents have agreed any variation to it.
13. The Respondents are not free to raise again Issues 2 and 4, which were determined in the Lead Case as set out above. That determination is now binding upon the Respondents in respect of those issues.

14. In respect of Issue 3, the Tribunal considered it reasonable to include the sum sought in the 2016/17 pitch fee review in those cases where it approved an increase in the pitch fee for that year. As this decision determines that it is not reasonable to change the pitch fee for the Respondents for 2016/17, there is no basis for the Applicant to recover the amount the Applicant claimed for security costs within this case. The Tribunal makes no determination on the question of whether the Applicant is entitled to seek payment of the sum it approved for the security works in other cases, by claiming it in a subsequent year, or by a new notice.

Appeal

15. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
Chair
First-tier Tribunal (Property Chamber)