

**Y TRIBIWNLYS EIDDO PRESWYL**  
**RESIDENTIAL PROPERTY TRIBUNAL**

**IN THE MATTER OF SECTION 17(1)(B), 17(1)(6)(A) OF SCHEDULE 2 CHAPTER 2 OF THE MOBILE HOMES (WALES) ACT 2013**

**Reference: RPT/002/04/22**

**Property: 20 The Vicarage Park, Coast Road, Ffynnongroyw, Nr Holywell, CH8 9HA**

**Applicant: Mr David Morley**  
Non attendance

**Respondent: Mr David Prince**  
In attendance

**Committee: Mrs Siân Westby (Chairperson)**  
**Mr David Jones FRICS (Surveyor Member)**  
**Mr Eifion Jones (Lay Member)**

**Decision of the Rent Assessment Committee**

Summary of Decision

**The Tribunal determines that the new monthly pitch fee is £236.26 (net of services). This fee is payable from 1 April 2022.**

**Reasons for Decision**

**The Application**

1. Mr Prince ("the Respondent") is the owner of a mobile home site situated at the Vicarage Park, Coast Road, Ffynnongroyw, Nr Holywell, CH8 9HA ("the Park")
2. Mr Morley ("the Applicant") is the occupier of pitch number 20 situated at the Park ("the Property") and has been occupying the Property since December 2012.
3. By way of an application to the Residential Property Tribunal dated 22 April 2022, the Applicant seeks a formal determination of the Respondent's proposed increase to the pitch fee payable, pursuant to paragraph 17(1)(b) of Schedule 2, part 1, chapter 2 of the Mobile Homes (Wales) Act 2013 ("the Act").

4. The Tribunal does not have before it a copy of the notice of proposed new pitch fee that was served upon the Applicant. However, the application to the Tribunal does not question the validity of the notice and only objects to the proposed increase in the pitch fee. Accordingly, for the purposes of determining the application, the Tribunal will proceed on the basis, without deciding the issue, that the notice of proposed new pitch fee was compliant with paragraph 23 of Schedule 2, part 1, chapter 2 of the Act.
5. The Applicant has made an application to the Tribunal seeking a determination as to the level of the proposed new pitch fee. The application notes that the proposed new pitch fee, if agreed, would take effect on 1 April 2022, with the last review having taken place on 1 April 2021.
6. The Tribunal issued directions on 5 May 2022 and invited written representations from the Respondent by no later than 27 May 2022 and written representations from the Applicant by no later than 17 June 2022.
7. The Respondent filed and served a written statement dated 25 May 2022. No written representations were received by the Applicant.
8. The parties were advised by the Tribunal that the Park would be inspected by the Surveyor Member and the Chairperson on 20 July 2022 and that there would be an oral hearing on 29 July 2022.

### **The Inspection**

9. Mrs Westby and Mr Jones inspected the Park on 20 July 2022. The Park is a park for static caravans that is located just south off the A548 Coast Road and the Chester to Holyhead mainline railway. The Park is on the outskirts of the former mining village of Ffynnongroew and with Prestatyn about 6 miles distance to the West and Holywell about 5 miles to the East. The Park is near open farmland and is in sight of the Coast.
10. The Park currently has 25 units situated on it and is connected to mains electric, water and drainage. Each pitch has its own bottled gas supply.
11. The Park has been a caravan park for over 30 years and is sited in the grounds of a former vicarage which still exists and now provides 6 residential flats.
12. There is a single width vehicular accessway to the west of the Park which leads to a rear car park for the site.
13. The Property is a single unit which we were informed by the Applicant as being 30' x 10'/ 9.15m x 3.05m in size and is located in the centre of the Park. The Property has a tandem parking space for two cars.
14. The Park was generally well maintained. The Applicant drew the members' attention to a vacant pitch that did not have a static caravan situated on it but had some cones placed on it, presumably to prevent access to the plot. There was also some rubble and general rubbish on the vacant plot.

15. The Respondent drew the members' attention to the rear car park on the site which had been re-tarmacadammed, the re-paving of certain areas of the Park (both such works having been carried out in in approximately 2017/18) and renewed brickwork to the entrance of the Park carried out in around 2017.
16. At the inspection, and as it was not stated in the Application or the Respondent's written statement, both parties informed Mrs Westby and Mr Jones that the current pitch fee for the Property was £212.14 per calendar month (net of water, sewerage and a water easement charge) and that the proposed increased pitch fee was £223.81 per calendar month (again, net of water, sewerage and a water easement charge).

### **Representations**

17. The hearing was convened remotely on the Kinly platform on the 29<sup>th</sup> July 2022 commencing at 10.30am. The Applicant did not attend and the Respondent attended in person. Pursuant to regulation 32 of the Residential Property Tribunal Procedures & Fees (Wales) Regulations 2016, '*where a party fails to appear at a hearing the tribunal may proceed with the hearing if (a) it is satisfied that notice of the hearing has been given to that party in accordance with these Regulations; and (b) it is not satisfied that there is a good reason for the failure to appear*'. The Tribunal was satisfied that the Applicant had been notified of the hearing pursuant to the Regulations and was not aware of any good reason for the Applicant's failure to appear, and therefore proceeded with the hearing in the Applicant's absence.
18. From the information provided on the application form, the Applicant's representations may be summarised as follows:
  - The Applicant does not agree with the proposed increase in his pitch fee as he believes that he is paying more for his pitch than other homes on the Park, some of which are larger than his Property. The Applicant states that for a number of years he did not know that he was paying more for his pitch than other occupiers on the Park.
  - The Applicant indicates on his application form that there has been a deterioration in the condition and/ or a decrease in the amenity of the site or any adjoining land which is occupied or controlled by the owner since 1 October 2014 (in so far as regard has not been had to that deterioration or decrease on previous pitch fee determination).
19. The Respondent's representations, incorporating his letter dated 25 May 2022, and given orally on the date of the hearing may be summarised as follows:
  - The current pitch fee was confirmed as being £212.14 per month. This fee was net of water and sewerage charges (which were variable and the cost of which was passed on to the occupiers of the Park in arrears and at cost price) and net of a £0.37 per month charge to all occupiers payable in respect of a water easement charge due to an adjoining land owner upon whose land the water meter for the Park was situated (again this was passed on to the occupiers at cost price).
  - The proposed pitch fee for 2022/23 is £223.81 per month (net of water, sewerage and the water easement charge referred to above), an increase of 5.5%.
  - The notice of proposed new pitch fee was served upon the Applicant under cover of letter dated 26 February 2022 with the proposed new pitch fee to take effect from 1 April 2022. The Respondent reviews the pitch fee annually on 1 April each year.

- The proposed increase in the pitch fee was calculated by reference to the Consumer Price Index (CPI) that was available at the time of serving the notice, that being the CPI for January 2022.
- The Respondent does not own or occupy any of the adjoining land to the Park.
- The Applicant's allegation that he is being charged too much for his pitch fee and that there has been a deterioration in the condition and/or a decrease in the amenity of the site is groundless and the pitch fees paid by other occupiers of the Park is irrelevant for the purposes of this matter.
- He is a responsible park owner of 30 years and continually improves the Park's facilities. He has not increased the annual pitch fee to take into account any improvements he has made to the Park, and has merely increased the fee by reference to the Consumer Prices Index.

### **The Law**

20. The relevant extracts of paragraph 17 of Schedule 2, part 1, chapter 2 of the Act, are as follows:

- (1) *The pitch fee can only be changed in accordance with this paragraph either –*
  - (a) *with the agreement of the occupier, or*
  - (b) *if a Tribunal, on the application of the owner or an occupier, considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee.*
- (2) *The pitch fee must be reviewed annually as at the review date.*
- (3) *At least 28 clear days before the review date the owner must serve on the occupier a written notice setting out proposals in respect of the new pitch fee.*
- (4) *A notice under sub-paragraph (3) which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 23.*
- (5) *If the occupier agrees to the proposed new pitch fee, it is payable as from the review date.*
- (6) *If the occupier does not agree to the proposed new pitch fee –*
  - (a) *the owner or the occupier may apply to a tribunal for an order under sub-paragraph (1)(b) determining the amount of the new pitch fee,*
  - (b) *the occupier must 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 tribunal under sub-paragraph (1)(b), and*
  - (c) *the new pitch fee is payable as from the review date but the occupier is not to be regarded 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 tribunal's order determining the amount of the new pitch fee.*
- (7) *An application under sub-paragraph (6)(a) may be made at any time after the end of the period of 28 days beginning with the review date but no later than 3 months after the review date.*

21. Paragraph 18(1) of Schedule 2, part 1, chapter 2 of the Act requires that when determining the amount of the new pitch fee particular regard is to 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(1)(e) and (f), and*

- (iii) *to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, a tribunal, on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee.*
  - (b) *any deterioration in the condition and any decrease in the amenity, of the protected site or any adjoining land which is occupied and controlled by the owner since the date when this sub 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, and*
  - (c) *any reduction in the services which 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 sub-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, and*
  - (d) *any direct effect on the costs payable by the owner in relation to the maintenance or management of the site if an enactment which has come into force since the relevant review date.*
22. Paragraph 19(1) of Schedule 2, part 1, chapter 2 of the Act states that ‘*when determining the amount of the new pitch fee, any costs incurred by the owner in connection with expanding the protected site are not to be taken into account*’. Paragraph 19(2) states that ‘*when determining the amount of the new pitch fee, no regard may be had to –*
- (a) *any costs incurred by the owner in relation to the conduct of proceedings under this Part or the agreement,*
  - (b) *any fee required to be paid by the owner by virtue of section 6 or 13, or*
  - (c) *any costs incurred by the owner in connection with –*
    - (i) *any action taken by a local authority under sections 15 to 25, or*
    - (ii) *the owner being convicted of an offence under section 18’.*
23. Paragraph 20(1) of Schedule 2, part 1, chapter 2 of the Act states that –
- (1) *‘unless it would be unreasonable having regard to paragraph 18(1), there is a presumption that the pitch fee will increase or decrease by a percentage which is no more than any percentage increase or decrease in the consumer 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.*
  - (2) *In sub-paragraph (1) “the latest index” –*
    - (a) *In a case where the owner serves a notice under paragraph 17(3), means the last index published before the day on which that notice is served; and*
    - (b) *In a case where the owner serves a notice under paragraph 17(8)(b) means the last index published before the day by which the owner was required to serve a notice under paragraph 17(3).*

### **Deliberation**

24. As set out above, and pursuant to paragraph 18(1) of Schedule 2, part 1, chapter 2 of the Act, the Tribunal is to have regard to any sums expended by the owner since the last review date on improvements to the Park and to any deterioration in the condition and any decrease in amenity of the Park.

25. On the Respondent's evidence and the site inspection it was clear that significant sums had been expended in improving the park but that these improvements had taken place prior to the last review date, being 1 April 2021.
26. The Tribunal did not consider that there had been a deterioration in the condition, nor any decrease in the amenity of the Park. The Tribunal did not regard those aspects of the Park which the Applicant had referred the members to during the inspection to constitute a deterioration in the condition of the Park, nor sufficient to amount to a decrease in the amenity of the Park.
27. It is clear from the Applicant's application form that his dissatisfaction with the proposed increase in the pitch fee relates to his pitch fee in general. Indeed, the Applicant comments that although his home is smaller than other homes on the Park, his pitch fee is larger. He also confirms that he 'did not know [he] was paying more for [his] home than the others for a number of years after'.
28. It is not for this Tribunal to consider whether, when signing the agreement for occupation, the Applicant got a 'good deal' in respect of the pitch fee or how it compared to the pitch fees payable by other occupiers on the Park. This Tribunal can only consider and determine whether the proposed pitch fee increase is reasonable, having regard to paragraphs 17 – 20 of Schedule 2, part 1, chapter 2 of the Act.
29. The Respondent's proposal is that the pitch fee be increased by 5.5% from £223.81 (net) per month to £236.26 (net) per month with effect from 1 April 2022. On the Respondent's evidence, this increase is by virtue of the annual percentage increase in the CPI for January 2022, which was the last CPI available before he served the notice of proposed increase on the Applicant. The Tribunal has checked the CPI annual rate and has confirmed that for January 2022 it was 5.5%.
30. Pursuant to paragraph 20 of Schedule 2, part 1, chapter 2 of the Act (set out above), unless it is unreasonable having regard to paragraph 18(1), there is a presumption that the pitch fee will increase/decrease by any percentage increase/decrease in the CPI by reference to the last index published before the day on which the notice of proposed increase is served on the occupier and the index published 12 months before.
31. Having regard to paragraph 18(1) of Schedule 2, part 1, chapter 2 of the Act, the Tribunal considers that it is reasonable that the presumption set out in paragraph 20 of Schedule 2, part 1, chapter 2 of the Act applies to the pitch fee in this matter. The Tribunal is satisfied that, on the evidence provided, the Respondent was correct to use the CPI annual rate for January 2022, being 5.5%.
32. Therefore, the Tribunal finds the new proposed pitch fee of £236.26 per month (net of the services referred to in paragraph 19) to be reasonable.
33. In accordance with paragraph 17(6)(c) of Schedule 2, paragraph 1, chapter 2 of the Act, the new pitch fee is payable from the review date, being 1 April 2022. However, pursuant to that same paragraph, the Applicant is not to be regarded as being in arrears until the 28<sup>th</sup> day after the date of the Tribunal's order determining the amount of the new pitch fee.

**Decision**

34. The Tribunal determines that the new monthly pitch fee is £236.26 per month (net of services). This fee is payable from 1 April 2022.

Dated this 4<sup>th</sup> day of August 2022.

S. Westby

(Chairperson)