

**Y TRIBIWNLYS EIDDO PRESWYL**

**RESIDENTIAL PROPERTY TRIBUNAL (WALES)**

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**Reference:** RPT/0024/03/24; RPT/0027/03/22; RPT/0028/03/22

**Property:** No 11, No 17, and No 19, Morfa Ddu, St James Drive, Prestatyn, LL19 8EX.

**Applicant:** Nelson Parks (Morfa Ddu) Limited

**Respondents:** Mr & Mrs Hughes (No 17), Mrs Caulfield (No 19), & Mr & Mrs Lee (No 11)

**Tribunal:** Chairman Jack Rostron  
Surveyor David Jones FRICS  
Lay Member Bill Brereton

**Appearances for Applicant:** Mr Michael Mullin of Counsel

**Appearances for Respondents:** Mrs Claire Cowman

**REASONS AND DECISION OF RESIDENTIAL PROPERTY TRIBUNAL**

1. An application dated 24<sup>th</sup> March 2022 was made by site owner Nelson Parks (Morfa Ddu) Limited (the Applicant) for determination of new level of pitch fee under the provisions of the *Mobile Homes (Wales) Act 2013*. The application relates to a property [the Property] No 11, No 17, and No 19, Morfa Ddu, St James Drive, Prestatyn, LL19 8EX.

2. Amended directions were issued dated 16<sup>th</sup> May 2022 states: -“It being recorded that only nos. 11, 17 and 19 have filed respondent notices confirming they wish to oppose the application in accordance with regulation 9(2) of the *Residential Property Tribunal Procedures and Fees (Wales) Regulations 2016* the Tribunal considers it reasonable only to send directions to those representatives of nos. 11, 17, and 19 who will be treated as the Respondents for the purposes of the directions”.

3. The Pitch Fee Review Notice states:

The last review date was 1<sup>st</sup> February 2021 for all three mobile homes.

The current pitch fee is £174.97 per month for nos. 11 & 19.

The proposed new pitch fee for nos. 11 & 19 is £182.32 per month.

The current pitch fee is £158.42 per month for no. 17.

The proposed new pitch fee for no. 17 is £165.07 per month.

The start date for the new pitch fee (having been amended because of errors in the previous one) is 1<sup>st</sup> April 2022 ending 31<sup>st</sup> January 2023.

The start and finish dates, and calculation for the new pitch fee are not in dispute. The amount of the proposed new pitch fee is in dispute by the Respondents because of issues appertaining to maintenance of the site.

### **Statements of Response to Pitch Fee Review Notice by Respondents**

4. The Respondents have each provided written statements; dated 12<sup>th</sup> June 2022 by Mr & Mrs Hughes and Mrs Caulfield. Mr & Mrs Lee's written statement is dated 8<sup>th</sup> June 2022. All the statements deal with the same issues and are summarised below.

5. The access road needs to be completed by the addition of a wearing surface which will protect the base course and cover the area repaired by patching. Repairs to the concrete kerb stones is required. The width is too narrow.

6. The site lighting is inadequate. Some lights do not work.

7. The site boundary fence needs to be maintained better and create a uniform appearance.

8. The pedestrian access gate requires maintenance.

9. The drainage system needs to be appropriately maintained, especially at no. 17.

10. There is no current site for Residents Fire Assembly Point.

11. There is no communal parking space at the site entrance.

12. There is no longer a vehicle turning circle at the bottom of the access road.

13. There is no longer a resident warden since the Applicant became the owner of the site in 2019.

### **Applicants Statements in Reply to Responses to Pitch Fee Notices by Respondents**

14. The Applicants statements are dated 24<sup>th</sup> March 2022, 25<sup>th</sup> May 2022 and 29<sup>th</sup> June 2022 and summarised in the following paragraphs.

15. With regard to the access way and kerb stones the Applicant states that; the surface of the road is to an appropriate standard but accepts that some patch work does exist, that there is only one cracked kerb stone; and the road is sufficiently wide.

16. Concerning street lighting the Applicant does not accept it is inadequate. Once the Applicant is notified of lights which do not work, they are repaired.

17. The site boundary fence has been appropriately maintained when the Applicant has been made aware of disrepair. The repairs have been carried out to a reasonable standard Whilst the Applicant accepts responsibility for repairs, actions by individual owners have over time hindered maintenance by embellishing them. If individual owners wish to fence their boundary in other ways than proposed the Applicant has no objection.

18. In terms of the pedestrian access gate the Applicant was not aware of the disrepair and the details of same have not been provided by the Respondents. On examination the Applicant believes the gate is not in a state of disrepair.

19. The Applicant does not accept that the drains are inadequately maintained and has not been presented with any evidence to suggest this is the case. The Applicant takes the view that the drains have been improved since they took ownership in 2019. The drainage problem at no 17 has and is being appropriately addressed by the Applicant.

20. Regarding the absence of a Residents Fire Assembly Point, the Applicant is not aware of the prior existence of such. Black Knight safety undertook a fire risk assessment on 16<sup>th</sup> March 2022 and found that the site met the obligations required under the *Regulatory Reform (Fire Safety) Order 2005*.

21. In terms of the lack of communal parking space at the entrance, the Applicant states that they are not obliged to provide such spaces.

22. Regarding the lack of a vehicular turning circle at the bottom of the access road the Applicant states that the site did not benefit from a turning circle and no evidence has been provided to support this view. The area at the bottom of the access road was an undeveloped pitch which has subsequently been developed and adequate turning space provided on the road. The undeveloped site was never a communal green space.

23. Concerning absence of a warden since the Applicant took over ownership of the site in 2022, the Applicant has implemented alternative arrangements for residents to contact the owner and put in place appropriate means of dealing with residents' problems.

## **The Law**

24. The relevant law is *Schedule 2 Mobile Homes (Wales) Act 2013*.

18. (1) 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...
- (b) 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...
- (c) 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 subparagraph came into force...

47. (1) The pitch fee can only be changed in accordance with this paragraph, either –

- (a) with agreement of the occupier, or
- (b) if a tribunal, 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....

48. (1) 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...-
- (b) any decrease in the amenity of the protected site since the last review date, and
- (c) the effect of any enactment which has come into force since the last review date.

50. (1) Unless it would be unreasonable having regard to paragraph 48(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 price 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.

## **Inspection**

25. The subject Property was inspected by the Tribunal at 12.30pm on 16<sup>th</sup> August 2022 in the presence of Mr S Edwards site agent for Applicant and Mrs Claire Cowman representing the Respondents: - Mrs J Hughes, Mrs R Caulfield and Mr B Lee.

26. It inspected the access road and observed it to be in an acceptable condition with a view to a final surface being applied in the near future. Patching of a trench was noted. The kerb stones had minor cracks and chips missing. The road width appeared suitable for the size of the site and number of mobile homes.

27. The site lighting consisted of approximately 1-metre-high columns which were of a modern design and fitted well into the style of the site. We were informed that the lights that had been reported not to work had been repaired.

28. The Tribunal observed that the boundary fencing consisted of wooden panels of roughly the same size but different design and to be of a reasonable standard. Adjacent and in immediate proximity of the site boundary fencing was another post and chain link fence.

29. The pedestrian access gate was viewed and the locking mechanism worked and the gate itself was in a reasonable state of repair.

30. The Tribunal observed that at number 17 a drainage contractor was in attendance to deal with the repair.

31. At the former site of the Residents Fire Assembly Point the Tribunal observed it had been developed for a new mobile home. Firefighting equipment was observed and appeared to be of a modern type and appropriate for the size of the site and number of mobile homes being 24 in total.

32. At the entrance the Tribunal observed three car parking spaces for use by visitors.

33. At the bottom of the access road the Tribunal observed the hammer head layout of the road which facilitated the turning of vehicles, albeit perhaps not as efficiently as a turning circle.

### **Hearing & Decision**

34. The hearing started at 10.00am on 17<sup>th</sup> August 2022 and was by video conferencing. It was attended by Mr S Nelson Director of the Applicant, Mr. M Mullin Counsel for the Applicant, Mrs C Cowman representing the Respondents in a lay capacity with assistance from Mr B Lee.

35. The oral evidence presented by the Applicant and Respondents essentially reiterated their views expressed in the written evidence submitted.

36. Concerning the state of the access road Mr Lee said a final surface needed to be placed on the road. Mr Nelson agreed and stated that this would be put in place within 12 months. The Tribunal considered the state of repair of the kerb stones and found them acceptable with currently only minor defects. It also considered the hammer head turning layout to be acceptable for the level of traffic generated on the site being limited to 24 mobile homes. Mr Lee accepted that the width of the road was appropriate and withdrew his concern.

37. Regarding the boundary fence, the Respondents wished its extent to be of a uniform design. Following an explanation by Mr Nelson it was agreed that this would not be possible because of the multiplicity of ownerships along its length. Each owner potentially has different requirements. In terms of the standard of repair the Tribunal considered this to be reasonable.

38. The Respondents expressed concern about the lack of a Residents Fire Assembly Point. The Tribunal accepted the findings of the risk assessment undertaken on behalf of the Applicant by Black Knight and were satisfied that such an installation was unnecessary and met the requirements of the *Regulatory Reform (Fire Safety) Order 2005*. The fire alarm and fighting equipment provided on the site appeared appropriate and was demonstrated to function well in terms of generating an appropriate warning alarm.

39. The Respondents expressed concern regarding drainage problems especially surface flooding. Mr Nelson explained that the Applicant had carried out works to alleviate the situation and was liaising with Welsh Water regarding an apparent blockage in their drains which the Applicant expected them to rectify. Mr Nelson explained that the delay in finishing the road surface was because of the need for Welsh Water to carry out their necessary works. Regarding the drainage problem at number 17, the Tribunal was told the pipe from the mobile home was inspected and found not to be at fault and now matters were in hand for Welsh Water to remedy the problem in their system.

40. In terms of the pedestrian access gate the Respondents accepted that the locking mechanism did work and this was shown to the Tribunal's satisfaction. The state of repair of the gate itself was considered adequate.

41. The Respondents' concern regarding the lack of a warden was addressed by the Applicant who explained that all the residents could either email or telephone their office and an appropriate contractor would be appointed to deal with the identified problem. The contact details were made available on the notice board located at the entrance to the site. The Tribunal accepted that the lack of a resident warden was appropriately dealt with by the Applicant.

### **Decision & Order**

42. For the above reasons the Tribunal orders that the proposed increase in pitch fees from 1<sup>st</sup> April 2022 be as follows:

Pitch 11 Morfa Ddu Park £182.32 per month.

Pitch 17 Morfa Ddu Park £165.07 per month.

Pitch 19 Morfa Ddu Park £182.32 per month.

DATED this 5<sup>th</sup> day of September 2022

*Jack Rostron*  
CHAIRMAN

Either party may appeal this decision to the Upper Tribunal. An application for permission to appeal should in the first instance be made to this Tribunal within 21 days of the date upon which this decision was made.

### **THE LAW & APPEAL TO THE UPPER TRIBUNAL**

1. Section 231 of the *Housing Act 2004* allows a party following a refusal to appeal from the Residential Property Tribunal to seek permission from the Upper Tribunal.
2. Regulation 37 of the *Residential Property Tribunal Procedures and Fees (Wales) Regs, 2016* explains the appeals procedure.

3. Part 3 of the *Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 S.1. 2010 No. 2600 (L.15)* as amended explains the process for making an application to appeal.
4. You must apply for permission to appeal in writing to be received by the Tribunal no later than 14 days after the date on which the tribunal that made the decision under challenge sent notice of its refusal of permission to appeal to the Applicant.

Contact details are;

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