

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL (WALES)

Reference: File Numbers:

RPT/0018/01/23 – No. 1	RPT/0019/01/23 – No. 9	RPT/0020/01/23 – No.11
RPT/0021/01/23 – No. 16	RPT/0022/01/23 – No. 27	RPT/0023/01/23 – No. 34
RPT/0024/01/23 – No. 54	RPT/0025/01/23 – No. 58	RPT/0026/01/23 – No. 62
RPT/0027/01/23 – No. 92	RPT/0028/01/23 – No. 94	RPT/0029/01/23 – No. 95
RPT/0030/01/23 – No. 107	RPT/0031/01/23 – No. 129	RPT/0032/01/23 – No. 132
RPT/0033/01/23 – No. 141	RPT/0034/01/23 – No. 158	RPT/0035/01/23 – No. 164
RPT/0036/01/23 – No. 165	RPT/0037/01/23 – No. 170	RPT/0038/01/23 – No. 171
RPT/0039/01/23 – No. 187	RPT/0040/01/23 – No. 191	RPT/0041/01/23 – No. 194
RPT/0042/01/23 – No. 228		

In the matter of an application for pitch fee reviews under the Mobile Homes (Wales) Act 2013

APPLICANT: Wyldecrest Parks (Management) Limited

RESPONDENTS:

Mrs Alves (No.1)	Mrs M Heaney (No. 9)
Mrs Rawlinson (No. 11)	Ms V Foster (No. 16)
Mr D and Mrs E Battison (No. 27)	Mrs Lambert (No. 34)
Mr and Mrs Willis (No. 58)	Mrs Jones (No. 62)
Mrs Eaton (No. 92)	Mr and Mrs Worrall (No. 95)
Mr Whelan (No. 107)	Mrs Sawyer (No. 129)
Mr T Challinor (No. 132)	Mr John and Mrs Wilson (No. 141)
Mrs J Smith (No. 158)	Mr K Pierce (No. 164)
Mr and Mrs Bergeson (No. 165)	Mr J Callaghan (No. 170)
Mr S Last (No. 171)	Mr Plank/Ms Foreshaw (No. 187)
Mr D Stewart (No. 191)	Mr and Mrs Robinson (No. 194)
Mr and Mrs Gallagher (No. 228)	

PROPERTIES:

No's. 1, 9, 11,16,27, 34, 54, 58, 62, 92, 94, 95, 107, 129, 132, 141, 158, 164, 165, 170, 171, 187, 191, 194, 228, Willow Park, Colliery Lane, Gladstone Way, Mancot, Deeside, Flintshire, CH5 2TX

TRIBUNAL: Trefor Lloyd (Tribunal Judge)
David Jones (Surveyor Member)
Hywel Eifion Jones (Lay Member)

DECISION ON APPLICATION FOR PERMISSION TO APPEAL MADE BY THE APPLICANT

Decision

Permission to appeal is refused.

REASONS

1. Permission to appeal will only be granted where:
 - (a) The Tribunal wrongly interpreted or wrongly applied the relevant law;
 - (b) The Tribunal has taken account of irrelevant considerations, or failed to take account of relevant considerations or evidence, or there was a substantial procedural defect;
 - (c) The point or points at issue is or are of potentially wide implication.

The Appeal Application

2. By way of an application dated the 19th of June 2023 the Applicant seek permission to appeal the decision of this Tribunal dated the 19th June 2023.
3. Within the permission to appeal form at number 6 the Applicant relies upon reasons (a) to (c) inclusive as set out in paragraph one of this decision and further expands on the reasons on pages 5 and 6 of the application form.
4. In coming to our conclusion, we have considered all the points raised by the Applicant and comment upon each and every one of the points raised adopting the Applicant's numbering as follows:
 - (a) Ground A – The Tribunal wrongly interpreted or wrongly applied the relevant law;
 - i) Finding there was a loss of amenity when there was no contractual obligation to provide car parking was wrong in law. In this regard the Applicant relies upon the First Tier Tribunal *Wyldecrest v Ranft* (MAN/00EM/2017/004 dated the 15th September 2017).

Reasons

Whilst a First Tier Tribunal decision is not binding upon us we have considered this decision and are of the view that it can be distinguished for the simple reason that in that instance the provision of car parking space was not within the gift of the Applicant (as it was not owned - see paragraph 11(4) of the decision) whereas in the case we determined, the loss of car parking space came as a direct result of the Applicant's actions which we found to result in a loss of amenity. The Applicant does not point to any binding authority to support its case that we have wrongly applied or interpreted the law.

Accordingly, we consider this ground of appeal has no prospect of success.

- ii) There was no witness evidence provided by any of the Respondents as to any loss of amenity resulting from “a relocation of space. The decision that all Respondents suffered a loss equally without evidence was an error of law”.

Reasons

There was evidence relating to this aspect of the case which we considered (pages 36, 39, 40) and appended plans referred to in the substantive decision. The Applicant also provided submissions on the point at paragraphs 15-23 (page 58) by way of a statement in response, all of which we considered before coming to our conclusion.

For the above reasons we consider this ground of appeal has no prospects of success.

- iii) “2 Respondents, 54 and 94 failed to complete a Respondent’s Notice and it was indicated by the Tribunal that they would not be taking further part in the proceedings. In determining the pitch fee in the same terms as the others, the applicant has been prejudiced, and the tribunal has erred in doing so.

Reasons

It is correct that the aforementioned Respondents did not complete a respondent’s notice. However, we still had an application from the applicant in relation to these Respondents. The Tribunal did not indicate that the Respondents would not be taking any further part, but simply by way of Directions indicated that the applications brought against these respondents would be considered solely upon the evidence received, which were simply the applicant’s application and further statements from the applicant.

There has in our view been no error of law in this regard and we consider this ground to appeal has no prospects of success.

- iv) “Works on this area had completed (sic) since before 1st January 2022. Had the respondents objected to the review for 2022 the CPI applied was 4.2%.... To reduce the review by 11.1% the entire figure just because that happens to be the CPI in this particular year is completely arbitrary and in failing to quantify the loss in amenity by the financial sum involved, the Tribunal erred in law.”

Reasons

The applicant is attempting to introduce fresh evidence. Nowhere in the hearing bundle or the Applicant’s evidence was there reference to works having been completed before 1st January 2022. As a Tribunal, we determined, after considering the evidence, that there should be no increase in the pitch fees.

For the above reason there is no error of law, and this ground of appeal has no prospects of success.

- v) “The Respondents (sic) brought up a number of points that they considered whether reduction in amenity, about 6 (sic) and all but one were refuted by the Tribunal. It is completely arbitrary that one item out of six results in 100% removal of the review figure. It is not clear what the tribunal would have done had more than one point been upheld. The 100% reduction of the revealed figure for one out of several, in this case, six, matters is an error in law.”

Reasons

As a Tribunal we determined after considering the evidence that there should be no increase in the pitch fees for the reasons set out in the written decision. There is no error in law and this ground of appeal has no prospects of success.

Ground (B) The tribunal took account of irrelevant considerations, or failed to take account of relevant considerations or evidence, or there was a substantial procedural defect

- i) “Given that this is a statutory inflationary increase in making the Applicant state its case first the Tribunal erred in standard practise for this type of case. This prejudiced the Applicant as it was only able to make a brief reply to the Respondents' case which it did not know until it was made with no right to produce evidence. An application to vary directions was refused.

Reasons

It is the standard practise of the Residential Property Tribunal in Wales to require the applicants in cases of this nature to initially state its / their case. The Applicant was given ample opportunity [14 days] to respond to the Respondents' evidence and did so by way of a statement which can be found at pages 57-60 in the bundle made by Mr D Sunderland on behalf of the Applicant.

If the Applicant was not happy with the refusal to amend earlier directions it should have sought to appeal that decision.

The Applicant has not been prejudiced as a result. This ground of appeal has no prospects of success.

- ii) “The main claim by the Respondents in this case was that the CPI increase should be restricted as it was high and the other points in relation to loss of amenity were only added as an afterthought with little evidence provided. In finding against the Respondents on the main points of their case the Tribunal erred by placing 100% of the weight on one single supplementary point with minimal evidence provided”.

Reasons

As a Tribunal we determined after considering the evidence that there should be no increase in the pitch fees for the reasons set out in the written decision. This ground of appeal has no prospects of success.

Ground C – The point or points at issue is or are of potentially wide implication.

- i) “It is normal on a mobile Home Park that mobile homes are sited subject of planning permission. It is not the case that the simple addition of mobile homes on a mobile Home Park can result in a reduction in amenity of a site”

Reasons

This is not even a ground of appeal but simply a submission. We came to the conclusion of a loss of amenity having considered all of the evidence.

This ground of appeal has no prospects of success.

- ii) The decision raises a number of matters of general importance to the determination of disputed pitch fee reviews including the relevance of site licence conditions, whether a uniform approach to increases is appropriate, and what process of valuation (if any) should be applied to the determination of increases where there if found to have been a reduction in amenity”

Reasons

This is a First Tier Tribunal non-binding decision arrived at after considering the evidence. It does not give rise to any matters of general importance.

As a consequence, this ground of appeal has no prospect of success.

Dated this 28th day of June 2023

Tribunal Judge
Trefor Lloyd

You may renew your application for permission to appeal to the Upper Tribunal (Lands Chamber). Your application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the RPT's notice of refusal was sent to you. (Details as to the power of the Upper Tribunal (Lands Chamber) to permit a notice of appeal or application for permission to appeal to be made outside the relevant time limit are given in the Upper Tribunal (Lands Chamber) "Explanatory Leaflet: A Guide for Users" obtainable from the Upper Tribunal (Lands Chamber)).

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