

Y TRIBIWNLYS EIDDO PRESWYL

RESIDENTIAL PROPERTY TRIBUNAL (WALES)

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Reference: RPT/0015/05/18

Property: 14 Rover Way, Tremorfa, Cardiff, CF24 2RX

Applicant: Cardiff County Council

Respondent: Ms Jamie James

Tribunal: Chairman - Jack Rostron
Surveyor - Mark Taylor MRICS
Lay Member - Carole Calvin-Thomas

Appearances for Applicant Richard Grigg Solicitor
Margaret Sousa – Lima Trainee Solicitor
Anthony Melhuish Site Manager
Ian Ephraim Supported Accommodation and
Outreach Manager

Appearances for Respondent: Ms Jamie James

REASONS AND DECISION OF RESIDENTIAL PROPERTY TRIBUNAL

1. An application dated 22 May 2018 was made by site owner Cardiff County Council 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] 14 Rover Way Caravan Site, Tremorfa, Cardiff, CF24 2RX.
2. The Pitch Fee Review Notice states;

The last review date was 3 April 2017

The current pitch fee is £80.53 per week.

The proposed new pitch fee is £82.94 per week

Estate Maintenance Charge is £5.48 per week.

The proposed pitch fee will take effect on 2 April 2018

3. The proposed new pitch fee has been calculated as (A) + (B) + (C) where
- (A) Is the current pitch fee of £80.53
 - (B) Is the Consumer Price Index (CPI) Adjustment £2.10 [calculated from a percentage increase of 3%]
 - (C) Is the recoverable costs of £5.48 (Estate Maintenance Charge)

The total **Net** charge is £82.94 per week

The total **Gross** charge is £88.42 per week

Applicants Statement of Case

4. As a preliminary issue it was agreed by the Applicant and Respondent that Mr Wayne Price having left the Property in 2015 is considered no longer a party to the dispute.
5. The Applicant's statement of case is essentially contained in the witness statement of Ian Ephraim, the Applicants Supported Accommodation and Outreach Manager. In essence the Applicant's case can be considered as follows; -

"The Respondents initially moved onto the pitch under a licence on the 23 June 2003.

The Respondents were granted a written agreement on the 29 June 2015 following introduction of the *Mobile Homes (Wales) Act 2013*.

A Pitch Fee Review Notice was served on the Respondents which took effect from 3 April 2017. The rent was increased to £80.53 and the service charge remained at £5.48p. The Respondents paid the new rent.

A Pitch Fee Review Notice was served on the Respondents which took effect from the 2 April 2018. The rent was increased to £82.94p and the service charge remained at £5.48p.

On the 20 March 2018 Ms Jamie James sent an email to the Council disagreeing with the new pitch fee and refusing to pay it.

All other residents at Rover Way have accepted the rent increase.

The service charge of £5.48 is charged at the same rate for all the pitches on Rover Way and Shirenewton. There is a total of 80 plots and the yearly total is £22,796.80. There are 21 pitches on Rover Way and 59 Pitches on Shirenewton.

The Rover Way site was opened in 1975 with 21 pitches. There are still the same 21 pitches on the site now. The Council do not believe that the site is overcrowded. There are however some individual plots that are overcrowded. Plot 14 is not one of them.

At no stage has the Rover Way site been found to be no longer suitable.

A Gypsy and Traveller Accommodation Assessment was undertaken by the Council which identified the need for additional pitches in Cardiff. The process of finding a site is ongoing but no final proposal has yet been made.

Ms Jamie James had previously complained that the chalet was leaning as the pitch was lop sided and this had caused damage to her chalet. This was investigated and found that the principal damage appeared to be more likely attributable to the construction of the unit rather than any ground movement.

Respondents Statement of Case

6. The Respondent by email to the Applicant dated 20 March 2018 stated: "Following receipt of New Pitch Fess dated 28-2-18 I write to inform you that I disagree with the new fee and do not intend to pay the increase from 3 April 2018"
7. The Respondent by letter dated 16 July 2018 stated "I disagree with the proposed raise of pitch fee for the following reasons:

The conditions on the site are unacceptable, its overcrowded, there are not the facilities that there are on the other council sites (such as Shirenewton) and it was identified a number of years ago that Rover Way is no longer suitable and that it would have to be moved., this still has not happened leaving the residents in limbo about when this will happen. There are questions about how safe the site actually is.

Site is not maintained adequately, we pay a service charge for it to be maintained/cleaned and it is not done, hedges/bushes trimmed weeded etc.

The pitch is lop sided so the chalet is leaning.

There are cracks in the concrete on the slab that need to be fixed but this has not been done.

Despite regular and numerous correspondence with the Council regarding the issues on site, no action is ever taken to rectify them.

Because of these reasons I do not feel that it is reasonable to raise the pitch fee on a site that is not adequate or meeting the needs of the residents that live on it".

8. The Respondent's statement is supplemented by letters from Julie Morgan AM Assembly Member for Cardiff North who wrote to the Applicant on 10 August 2012 and 4 June 2014 stating in summary:

"There should be a sign on the road warning that there are children in the vicinity.

A pedestrian footpath should be provided next to the road.

The current system of refuse collections does not work on the site.

The homes do not meet the Welsh Housing Quality Standards or equivalent.

Serious damage was caused to the Applicant's Chalet because of poor site conditions.

Considerable debris and sewage were emerging from the drains and this has been happening frequently".

The Law

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

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 before that to which the latest index relates.

Inspection

10. The subject Property was inspected by the Tribunal at 09.30am in the presence of Ms Jamie James the Applicant and Mr Richard Grigg, Ms Margaret Sousa-Lima, Mr Ian Ephraim and Anthony Melhuish for the Applicant.
11. It inspected the plot 14 which consisted of a chalet, two mobile caravans and a utility building. The chalet was mounted on masonry blocks. It had been installed in 2013. The pitch consists of a concrete surfaced area surrounded by a masonry wall. The utility building comprised in one room; shower, toilet and sink. The other room comprised sink, washing machine, dryer and boiler. No mains gas was available. Mains water and electricity is supplied on a token paying basis.
12. The Tribunal observed cracking in various parts of the concrete base which covered the whole of the pitch. A crack was also observed in the brick wall juxtapositioned between the main road and pitch.
13. The Tribunal observed that the chalet had had internal works carried out which included a new floor in part. There were limited cracks in the ceiling. It also observed a small vertical crack in the gable end of the chalet.

Hearing

14. The hearing started at 11:00am at the Tribunal offices in Cardiff. In attendance were Mr Grigg, Ms Margaret Sousa-Lima, Anthony Melhuish, and Mr Ian Ephraim for the Applicant and Ms Jamie James the Respondent.
15. The Applicant stated at the hearing that the issue was limited to any decrease in amenity on the site starting from the last review date which was 3 April 2017. They simply considered that there had been no decrease in the amenity of the site and as such the proposed increase in pitch fee was reasonable. They essentially reiterated the matters raised in the witness statement of Mr Ian Ephraim which is summarised above.
16. The Respondent stated at the hearing that there had been a general decline in the maintenance of the site. She reported that the cracks which existed in the concrete base of the pitch had only been repaired in four weeks prior to the date of the hearing. Specifically, she referred to rubbish which had not been collected regularly and showed a video recording of a pile of rubbish on fire which occurred on 5 July 2018.
17. The Respondent expressed concern at the token-based supply of water and electricity which had been introduced recently. The concern expressed was problems in contacting those responsible for supplying tokens during out of office hours.
18. The Respondent believed that lack of maintenance regarding the concrete base of the pitch which was not level has been the cause of damage to her

chalet. She expressed concern at the cracks in the concrete which had caused her to slip and suffer personal injury. A crack in the boundary wall along the main road was also identified by the Respondent.

Decision

19. The Tribunal considered the alleged general decline in maintenance which was exemplified by the cracks in the concrete base of the pitch and this did constitute a decrease in amenity. However, the Tribunal recorded that the general level of maintenance spent on Rover Way has not shown a consistent pattern of decrease/increase in such expenditure over the last few years.
20. The Tribunal considered the amount of rubbish reported by the Respondent and observed it at the inspection. It created a level of amenity which it felt was unacceptable. The Tribunal did however have sympathy with the Applicant in that they had to deal with a relatively high volume of fly tipping.
21. The alleged problems associated by the token-based purchase of mains water and electricity was considered by the Tribunal. It decided that the token based system for water was acceptable as it had reduced considerably the occupier's bills. Regarding electricity supply the system allowed an extra four days of supply when the token payment had run out. It therefore considered there had been no reduction in quality with regard to this matter.
22. The alleged damage to the Chalet caused by a lop-sided concrete base was considered. The Tribunal accepted the Applicant's technical investigation which found that the concrete base levels was not responsible for the damage to the Chalet. It did however find that the cracks in the concrete surface were unacceptable and represented a decline in amenity. Similarly, the crack in the boundary wall facing the main road represented a decline in amenity.

Costs

23. The Tribunal considered that the conduct of neither party warranted application of Section 34 of *The Residential Property Tribunal Procedures and Fees (Wales) Regulations 2016*.

ORDER

24. **The Tribunal orders that the proposed increase in pitch fee dated 2 April 2018 be reduced by 50p to £82.44 per week.**
25. 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) Rags, 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.

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DATED this 13th day of December 2018



CHAIRMAN