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RESIDENTIAL PROPERTY TRIBUNAL
MOBILE HOMES (WALES) ACT 2013

Reference: RPT/0011/02/15

Property: 16 Willow Park, Collier Road, Mancot, Deeside, Flintshire, CH5 2TX

Applicant: Wyldecrest Parks (Management) Ltd

Respondent: Miss Marie MacNally

COMMITTEE: Chairman J Rostron
Surveyor C H Williams
Lay Member Dr A Ash

REASONS FOR THE DECISION OF THE RESIDENTIAL PROPERTY TRIBUNAL

INTRODUCTION

1. We were duly convened as a Residential Property Tribunal on 19th May 2015 at; 16 Willow Park, Collier Road, Mancot, Deeside, Flintshire, CH5 2TX. We had before us an Application from Wyldecrest Parks (Management) Ltd under Paragraph 17(1)(b), 17(1)(6)a and 17(11)(a) of Schedule 2 Chapter 2 of the *Mobile Homes (Wales) Act 2013*.
2. An application by site owner for determination of new level of pitch fee dated 19th February 2015 was issued with directions on 27th February 2015.
3. The Applicant was represented at the inspection by Mr D Sunderland the Estates Director and the Respondent represented herself. At the hearing the Applicant was assisted by Ms J Springer the Park Manager and the Respondent assisted by Mr David Ackers.

INSPECTION

4. The Tribunal inspected the Property at 10.30 am on the 19th May 2015 in the presence of the Applicant and Respondent.
5. The Property is a single storey mobile home set in a park home site in a rural setting. The site consists of detached mobile homes located on individual pitches spaced approximately ten metres apart. The homes are accessed by hard surfaced service roads with parking bays located at several points throughout the site. Not all homes, including that of the Respondent, have direct vehicular access. There is an administrative office located at the entrance to the site. A large car park exists in close proximity to the office.
6. The Property of the Respondent is accessed by a footpath and is surrounded by garden which was well maintained and largely enclosed by fencing. Adjacent to the fenced pitch was an irregular shaped piece of land accessed through a gate which was overgrown and contained what appeared to be waste landscaping material and rubble in a pile approximately one to two metres in height and width. The Applicant believed this to form part of the demised pitch. The Respondent believed this

to be an abandoned vehicular access or car parking space which was allocated to the 'common parts' of the site.

7. The access roads were of tarmac surfacing and a certain number of pot holes and repaired pot holes were observed throughout the site. Sleeping policemen were placed at various points throughout the road layout in order to reduce vehicular traffic speed for safety reasons. The end of the sleeping policemen had been truncated by approximately one metre to facilitate the free passage of wheelchairs.

8. A section of land immediately adjacent to the carriageway of the service roads did contain a trench approximately five to ten centimetres in depth. The trench appeared to form part of a pitch and not forming part of a pavement to the carriage way.

9. The site contained a number of trees which were in full leaf being spring time. It was therefore not possible to observe the presence and degree of nuisance which may be caused by fallen leaves etc.

THE LAW

10. Paragraph 17 of Schedule 2 Chapter 2 of the *Mobile Homes (Wales) Act 2013* states:

17(1)(b) the pitch fee can only be changed in accordance with this paragraph – (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.

17(1)(6)(a) states; 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.

17(11)(a) states; If the occupier has not agreed to the proposed 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.

11. Paragraph 18 of Schedule 2 Chapter 2 of the *Mobile Homes (Wales) Act 2013* states:

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..., and
- (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....

DETERMINATION

12. The hearing was held at 12.00 at Deeside Enterprise Centre, Rowleys Drive, CH5 1PP. The Applicants' case was that the proposed pitch fee is £161.42p per month. The last review date was 1st January 2014. The agreement contains a review date of 1st January. The date on which notice of proposed pitch fee was served on the park home owner was 21st November 2014.

13. A written statement under the *Mobile Homes Act 1983* between Ms Marie MacNally and Mobile Living Ltd was commenced on 1st September 2008. The stated pitch fee was £1596.40 [per annum] plus water and sewage payable on 1st Tuesday of each month in advance. The attached first Schedule says the mobile home was manufactured in 1980, is 36ft x 20ft and made by Statley, serial number 0555739.

14. By a form prescribed under paragraph 23 of Chapter 2 of Part 1 of Schedule 2 to the *Mobile Homes (Wales) Act 2013* it was proposed to increase the pitch fee from £159.35 per month to a new pitch fee of £161.42 per month which was to take effect from 1st January 2015.

15. The proposed pitch fee was calculated according to the notice in accordance with paragraph 20 of Chapter 2 of Part 1 of Schedule 2 to the *Mobile Homes (Wales) Act 2013*. The figure applied was a percentage increase of the Consumer Price Index (CPI) over 12 months. The notice quotes an increase of 1.3% being the published annual percentage change in CPI for October 2014. The notice is dated 21st November 2014.

16. The Respondent Miss Marie MacNally's statement of case is dated 1st April 2015. The Respondent's statement initially refers to administrative matters concerning the correctness of the address used. She states the correct address should be cited as 16 Willow Park, Holly Leaf, Gladstone Way, Mancot, Deeside, Flintshire, Wales, UK CH5 2TX.

17. She stated the pitch fee has always included the water and sewage charges and this is so stated in the written agreement. Miss MacNally further said the rent review date works with the past years charges for water and sewage to be added to the total. Only by keeping this separate did it ensure that the water cost did not become part of the Retail Price Index increase.

18 Miss MacNally says there was no Tribunal for the 2014 Ground Rent Proposal.

19. The Respondent expressed concern at the lack of response with regard to discussions with the Accounting Department at Wydecrest Head Office.

20. She expressed concern at the decrease in amenities in terms of; pot holes in the roads and paths; dangers for residents such as open trenches; sleeping policemen damaging automobiles; leaves and tree branches left hanging over pathways; and rubble left at the rear of her home.

21. Extensive harassment was stated by the Respondent and concern expressed at the lack of response and help from the statutory authorities and mobile home park owners.

22. The Respondent expressed concern that she could not pay the pitch fee by standing order rather than by direct debit. Being disabled she said that setting up a direct debit would cause her anxiety.

23. The Applicant stated their proposal was In compliance with Chapter 2 of Schedule 2 paragraph 17(2) of the *Mobile Homes (Wales) Act 2013*. The Applicant reviewed the Respondents pitch fee on the review date of 1st January 2015. In line with paragraph 17(3) a written notice in line with paragraph 23 was served on the Respondent on 21st November, more than 28 days before the review date. The pitch fee was reviewed using the Consumer Price Index published in November 2014 (being the index for October 2014) of 1.3% and nothing more. This resulted in a proposal to increase the pitch fee from £159.35 to £161.42.

24. The Applicant further stated that in relation to paragraph 18(1)(b) there has been no deterioration in the condition or decrease in amenity of the site since the last review date or the date the legislation came into force to be taken into consideration. This application is made under paragraph 17(11)(a) and the Applicant has asked the Tribunal to determine the pitch fee from the review date of 1st January 2015 of £161.42 in line with the terms of the agreement under the *Mobile Homes (Wales) Act 2013*.

25. The Applicant explained and submitted documents which show the water charge and pitch fee are recorded separately and as a total figure. Historical accounts were presented which identify the payments being made as a total figure for pitch fee and water charges. Electricity is identified as a separate item.

26. With regard to the Respondents' concerns about harassment the Applicant expressed sympathy with the Respondents' position but felt they could not act because of lack of evidence.

27. The Applicant responded to Miss MacNally's request to pay the pitch fee by standing order by stating it was not company policy to accept payment by standing order.

28. Concerning the correctness of the address Miss MacNally accepted during the hearing that the notice had been served correctly.

29. In terms of the combination of pitch fee and water and sewage charges the Tribunal examined the relevant documents and found that the pitch fee and water and sewage could be identified as separate items.

30 The Tribunal accepted that the proposed pitch fee in 2014 had not been the subject of an application to the Residential Property Tribunal (Wales). This was agreed by the Respondent and Applicant at the hearing.

31. With regard Miss Macnally's concerns regarding lack of response and discussion with the Applicant's Accounts Department. the Applicant explained that there had been a change in personnel and efforts were being made to improve the level of customer satisfaction.

32. The pot holes in the roads on inspection had been repaired. Although some still needed attention. The open trench was found to be within the curtilage of a pitch and did not form part of a pavement. Sleeping policemen the committee felt served as a useful mechanism for improving road safety. Concerning leaves and tree branches overhanging causing a problem to pedestrians. The Tribunal found no evidence of this, although it was aware that it was spring and the trees were in full leaf. The rubble left at the rear of the Respondent's mobile home was found to be screened by fencing. There appeared confusion between the Applicant and Respondent as to who was responsible for this part of the site. The visual impact of the rubble was however considered masked by the high fencing.

33. The Tribunal was conscious of the Respondent's feelings about harassment. It explained to her that such matters are outside its remit. It did note the willingness of the Applicant to assist in this regard if evidence can be put forward.

34. Regarding the Respondent's concern about the Applicant's policy not to accept payment by standing order was considered by the Tribunal. It felt the Applicant's policy of only accepting regular payment by direct debit unreasonable. It considered the Applicant should perhaps review its policy and accept payment by standing order.

It is declared the Tribunal has decided the pitch fee for 16 Willow Park, Collier Road, Mancot, Deeside, Flintshire, CH5 2TX shall be £161.42 per month from the 1st January 2015.

DATED this 3rd day of June 2015



J Rostron

CHAIRMAN