



**First-tier Tribunal
Property Chamber
(Residential Property)**

Case Reference : **CAM/00MB/PHN/2017/0002**

Site : **Crookham Park, Thatcham RG19 8DP**

Application 1

Applicant : **Crookham Park Home Owners Association**

Respondent (Site Owner): **Dr PL Pratt represented as above**

Date of Application : **9th February 2017**

Type of Application : **Determination of a question arising under the Mobile Homes Act 1983 or an agreement to which it applies – section 4 of the Mobile Homes Act 1983 as amended (“the Act”)**

Application 2

Applicant (Site Owner): **Dr PL Pratt**

Representative : **Mr Charles Auld of Counsel instructed by Saulet Ashworth, Solicitors**

Respondent : **Crookham Park Home Owners Association & 59 Home Owners as set out in the list provided at the Hearing**

Date of Application : **3rd March 2017**

Type of Application : **Determination of new pitch fee pursuant to paragraph 16 of Chapter 2 of Part 1 of Schedule 1 of the Mobile Homes Act 1983 (as amended)**

Tribunal : **Judge JR Morris
Mrs HC Bowers MSc MRICS
Mr A Kapur**

Date of Hearing : **22nd August 2017**

Date of Decision : **19th September 2017**

CONSENT ORDER & DECISION

CONSENT ORDER

UPON the hearing of these matters at the Classic British Donnington Valley Hotel, Newbury on 22nd August 2017

AND UPON PETER LESLIE PRATT agreeing:

- 1) To the installation of individual water meters for mobile homes provided:
 - a) the individual home owner obtains permission for these meters from the relevant water company which shall bill the home owner direct; and
 - b) installation shall be at the cost of the home owner.
- 2) To the installation of dropped kerbs to facilitate access to individual mobile homes which are occupied by disabled occupiers to give access for wheelchairs and/or mobility scooters provided:
 - a) such dropped kerb is installed at the cost of the home owner; and
 - b) the original kerb will be restored when the mobile home is assigned;
 - c) there will be a written agreement confirming the above in respect of any mobile home accessed over a dropped kerb.
- 3) The clearing of the storm water drains shall form part of the annual maintenance of the park.
- 4) The paths affected by moss will be sprayed as often as necessary to kill the moss.
- 5) If the occupiers set up a 'no cold-calling zone', 2 signs can be erected on the site by the local authority relating to it.

BY CONSENT

1. The occupiers agree to the proposed pitch fee increase for the year 2017 being the 2% RPI.
2. The application by Crookham Park Home Owners Association dated 9th February 2017 is withdrawn.

DECISION

1. The Tribunal consented to the withdrawal of Application 1.
2. The Tribunal makes an Order by Consent of the parties as set out above.

REASONS

Inspection

3. The Tribunal inspected the Park prior to a Hearing in the presence of Dr PL Pratt, the Park Site Owner, and his representatives Mr Townsend, of Saulet Ashworth, Dr Pratt's Solicitors, Mr Charles Auld, counsel for Dr Pratt and Mr Bradley Walsh representing Crookham Park Home Owners Association and a number of Home Owners.
4. The Tribunal noted that the Park is restricted to Home Owners being aged 50 years or more. The Tribunal walked around the Park. There is a single carriageway roadway around the park off which are the Park Homes mostly grouped into closes. The closes have space for parking. A one-way system operates for vehicles with a speed limit of 10 miles per hour. There is an open space recreation area. The site appeared well maintained and the boundaries are mostly marked by hedges some of which are made up of conifers. There was a plan at the entrance to the Park on which was indicated the roadway and closes, the open space and each of the 139 homes.
5. Mr Walsh referred the Tribunal to the height of the kerbs, and the width and condition of the pathways. He also pointed out two Homes where there were disabled residents. The Tribunal noted that a Home Owner had created hardstanding for a car on a pitch alongside the home.

Application 1

6. An Application was made by the Crookham Park Home Owners Association under Section 4 of the Mobile Homes Act 1983 (as amended) which enables an application by an occupier of a Park Home or a Park Home site owner to be made to a First-tier Tribunal (Residential) Property Chamber) for a determination of any question arising under the Mobile Homes Act 1983 or agreement.
7. The question related to the setting of pitch fees. It was contended that pitch fees had been reviewed by the Respondent when an existing agreement was assigned on the purchase of park home which was in contravention of paragraphs 16 and 17 of Part 1, Chapter 2 of the 1st Schedule of the Mobile Homes Act 1983 as amended. These provisions state that in these circumstances the pitch fee can only be reviewed annually as at the review date. The Applicants stated that this had resulted in numerous different pitch fees across the Park.

8. It was apparent from the Bundle that the Applicant sought to have the issue dealt with in a general manner.
9. The Hearing was attended by Mr Walsh, a Home Owner, representing the Applicant, Crookham Park Home Owners Association, and the Respondent, Dr Pratt, and his representatives Mr Townsend and Mr Auld of counsel. It was also attended by a number of Home Owners.
10. At the Hearing, the Tribunal having read the Bundle provided, questioned the proposed submissions. The Tribunal stated that although Park Home Owners may make a joint application each Home Owner who was a party to the application would have to provide evidence that the pitch fee had been reviewed in contravention of the agreement. Before making such application, Home Owners must ensure that they have sufficient evidence to support their contention. They should examine their agreements and the circumstances in which they were entered or assigned. It was considered that this was a general Application which sought to deal with the differing individual Home Owner's pitch fees by making a determination that would be applicable to all without looking at each circumstance. The Tribunal said it could not make a such a determination.
11. The Applicant noting that a collective general submission was not appropriate requested that the Application be withdrawn.
12. The Tribunal finding that the form of the submission inappropriate to the question to be determined by the Application, consented.

Application 2

13. The Applicant applied on the 3rd March 2017 for a determination of the pitch fee payable by the Respondents. The Applicant by a Notice in the prescribed form dated 21st November 2017, proposed a new pitch fee.
14. The increased pitch fee was calculated on the basis of an increase in the Retail Price Index (RPI) of 2.0% as the percentage increase in the RPI over 12 months by reference to the RPI published for October 2016.
15. The Respondents did not agree to the proposed pitch fee because they stated there were a number of outstanding issue which they wished to be settled before doing so. These issues included:
 - Water meters
 - Dropped kerbs for disabled access
 - Clearing of storm water drains
 - Moss control on footpaths
 - The establishment of a 'No calling zone'
16. The Hearing was attended by the Applicant, Dr Pratt, and his representatives Mr Townsend and Mr Auld of counsel and Mr Walsh, a Home Owner, representing the Respondents, Crookham Park Home Owners Association. It was also attended by a number of Home Owners.

17. At the commencement of the Hearing Mr Auld Counsel for the Applicant informed the Tribunal that discussion had been taking place with regard to the issues which had led to the Home Owners objecting to pitch fee increase and he thought a settlement may be possible. Both parties applied for an adjournment until the afternoon with a view to a Consent Order being agreed.
18. The hearing re-convened in the afternoon and Mr Auld for the Applicant submitted a had written draft Consent Order (a fair copy of which was provided to the Tribunal the following day). Mr Walsh for the Respondent confirmed that the draft Order reflected what had been agreed and addressed the issues which the Respondents wanted addressed before paying the increased pitch fee.
19. The Tribunal being satisfied that the draft was the agreed position makes an Order by Consent of the parties as set out in the Consent Order prior to these reasons.

Judge JR Morris

Annex – Right of Appeal

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.