



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **MAN/00EQ/PHI/2019/0002**

Property : **HOME FARM PARK, LEA GREEN, CHURCH
MINSHULL, CHESHIRE CW5 6ED**

Applicant : **FURY DEVELOPMENTS LIMITED**

Respondents : **MR and MRS MEREDITH and others as
attached list**

**Type of
Application** : **DETERMINATION OF PITCH FEE
Mobile Homes Act 1983
Schedule 1, Part 1, Chapter 2, Para 16**

Tribunal Members : **A M Davies, LLB
P Mountain, FRICS**

Date of Decision : **17 June 2019**

DECISION

The pitch fee payable by each of the Respondents shall not be increased pursuant to the Applicant's notice of increase dated 14 November 2018.

REASONS

BACKGROUND

1. Home Farm Park is a protected site containing upwards of 60 park homes occupied by residents over 50 years of age. It is owned by the Applicant.
2. On 14 November 2018 the Applicant served notices on the Respondents seeking to increase their pitch fees by reference to the percentage RPI increase in the year to October 2018. The Applicant's statement that the relevant percentage is 3.3% has not been disputed by the Respondents.
3. The Respondents refused to pay the increased pitch fee, and on 7 February 2019 the Applicant applied to this tribunal for determination of the pitch fee for the current year.

THE LAW

4. Each Respondent is party to an agreement with the Applicant, into which are incorporated the Implied Terms set out in Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983.
5. Paragraph 17 of the Implied Terms contains the following provisions:
"(2) At least 28 clear days before the review date the owner shall serve on the occupier a written notice setting out his proposals in respect of the new pitch fee.
(2A) In the case of a protected site in England, a notice under subparagraph (2) which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 25A."
6. Paragraph 25A of the Implied Terms states
"(1) The document referred to in paragraph 17 (2A)... must –
(a) be in such form as the Secretary of State may by regulations prescribe,
(b) specify any percentage increase or decrease in the retail prices index calculated in accordance with paragraph 20 (A1),
(c) explain the effect of paragraph 17,
(d) specify the matters to which the amount proposed for the new pitch fee is attributable,
(e) refer to the occupier's obligations in paragraph 21(as) to € and the owner's obligations in paragraph 22 © and (d), and
(f) refer to the owner's obligations in paragraphs 22 € and (f) (as glossed by paragraphs 24 and 25)."

THE APPLICATION

7. The parties did not request an inspection or a hearing, and the application was determined on the basis of documents supplied by the parties.

8. Each of the Respondents provided the tribunal with a statement setting out his or her reasons for not agreeing to the increase in pitch fee. Many of these related to the arrangements for collecting payments for water, sewerage services, gas and electricity, all of which are payable in addition to the pitch fee and are therefore not relevant to the current application.
9. The Applicant provided the tribunal with a blank copy of the Written Statement it uses as the basis of its agreements with the owners of park homes on the site. It was not apparent from this document on what date the new pitch fees take effect in each year.
10. The Applicant also provided a copy of the letter it had sent to each Respondent on 14 November 2018, which reads:
“Dear Resident, The RPI for October 2018 is 3.3%. Therefore from the 1st January, 2019 your site fee will increase from £[] to £[] a month.”
The amount of the current and new pitch fees varies from pitch to pitch.

CONCLUSION

11. The Applicant has not served the Respondents with a notice of proposed increase of pitch fee in the form required by paragraphs 17 and 25 of the Implied Terms. Therefore the pitch fees payable in 2018 are not increased in 2019.

LIST OF RESPONDENTS

Pitch number

Mr and Mrs Meredith	1
Mr Green	4
Mrs Collins	5
Mrs Harrison	12
Mrs Burton	25
Mr and Mrs Bowler	27
Mr and Mrs Jones	29
Mr and Mrs Garbett	36
Mrs Woodward	52
Mrs Brazier	54
Mr Arcaro	56
Mr and Mrs Bannister	59
Mrs Geddes	60
Mrs Smith	62
Mr Askew	63