



FIRST-TIER TRIBUNAL PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : CHI/40UD/PHI/2019/0205
Property : 5 Greenacres Park, Coppitts Hill, Yeovil BA21 3PP
Applicant : High Grove Parks Limited
Representative : Apps Legal Limited
Respondents : Mr and Mrs Shear
Representative : ---
Type of Application: Determination of new pitch fee – Schedule 1
Mobile Homes Act 1983
Tribunal Member: Judge P J Barber

Date of Decision: 28th February 2020

DECISION

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Decision

- (1) The Tribunal determines that the pitch fee shall be £149.49, as from 1st September 2019.

Reasons

INTRODUCTION

1. The application is dated 28th November 2019, and is for determination of a new level of pitch fees in regard to the mobile home pitch located at 5 Greenacres Park, Coppitts Hill, Yeovil BA21 3PP. The Applicant, High Grove Parks Limited, is the site owner.
2. Directions were issued on 6th December 2019 and provided that the matter would be determined on the papers without a hearing, unless a party objected in writing to the Tribunal within 28 days of receipt of the directions. No objections have been received by the Tribunal and accordingly all this matter now falls to be determined on the papers, without an oral hearing.

THE LAW

4. Paragraphs 16, 17 & 18(1) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 provide that:-

16. The pitch fee can only be changed in accordance with paragraph 17, either-

(a) with the agreement of the occupier, or

(b) if the appropriate judicial body, 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) The pitch fee shall be reviewed annually as at the review date.

(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) A notice under sub-paragraph (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.

.....

18(1) When determining the amount of the new pitch fee particular regard shall be had to-

(a) any sums expended by the owner since the last review date on improvements-

(i) which are for the benefit of the occupiers of mobile homes on the protected site;

(ii) which were the subject of consultation in accordance with paragraph 22(e) and (f) below; and

(iii) *to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the appropriate judicial body, on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;*

(aa) *any deterioration in the condition, and any decrease in the amenity, of the site or any adjoining land which is occupied and controlled by the owner since the date on which this paragraph came into force (in so far as regard has not previously been had to that reduction or deterioration for the purposes of this subparagraph;*

(ab) *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, since the date on which this paragraph came into force (in so far as regard has not previously been had to that reduction or deterioration for the purposes of this subparagraph*

(b)

(ba) *..... any direct effect on the costs payable by the owner in relation to the maintenance or management of the site of an enactment which has come into force since the last review date; and*

(c)

Paragraph 25A provides that-

25A The document referred to in paragraph 17(2A) and (6A) 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(c) to (e) and the owner`s obligations in paragraph 22(c) and (d), and*

(f) *refer to the owner`s obligations in paragraph 22(e) and (f) (as glossed by paragraphs 24 and 25)*

....

Paragraph 20(A1) provides that-

20(A1) Unless this would be unreasonable having regard to paragraph 18(1), there is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the retail prices index calculated by reference only to-

(a) *the latest index, and*

(b) *the index published for the month which was 12 months before that to which the latest index relates*

WRITTEN REPRESENTATIONS

5. The bundle includes a copy of the application, the pitch fee review notice, directions, witness statements, and response from the Respondents. The application indicates that the review date specified in each of the respective written agreements is “1st September”, that the date of the last review was in this case “1st September 2018”, and that the date when the notice of the proposed new pitch fee was served, was “1st August 2019”.
6. The Applicant had further stated that since the last pitch fee review in each case, no money had been spent on improvements which are for the benefit of the occupiers on the site, and there had neither been any deterioration in the condition and/or amenity of the site, nor any reduction in the services that the owner supplies to the site. Similarly, the application indicated that the pitch fee does not include payments for water, sewerage, gas, electricity and any other services.
7. The pitch fee review form in the bundle appeared to be in the form prescribed by The Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations SI 2013/1505.

DECISION

8. The Tribunal has taken into account all the case papers in the bundle and also notes the witness statements and written submissions of the parties.
9. Kirstie Apps of the Applicant’s representative, APP Legal Limited, confirmed in her witness statement that the June 2019 RPI percentage change had been the last published figure prior to the notice of increase being given.
10. In a letter dated 31st December 2019, sent by G Shear to the Applicant, the Respondents said that they regarded the statement in section 4 of the application, to the effect that there has been no deterioration of the site, to be untrue; he also referred to the poor and worsening condition of the boundary walls/fence and the road surface, adding that he was reluctant to pay more for less.
11. In his first witness statement dated 21st January 2020, Mr Fury said in broad terms that the site is licensed and certificated; he described the layout and also referred to certain maintenance works which he said had been undertaken and concluding to the effect that he did not consider the overall condition to have deteriorated. Also appended, was a copy of a letter from South Somerset District Council dated 20th January 2020 indicating that “*The overall conditions on the site are good...*”, although referring to two outstanding items to be addressed being subsidence at Pitch 1, and certain re-tarmac surfacing to the site roads, but declining to take any enforcement in view of agreeable responses from the site owners.
12. Whilst the Tribunal has some sympathy with the Respondents in regard to the issues they raise, the Respondents may wish to consider pursuing separate means of redress, if they consider the owner is in default of its repairing obligations in the written agreement. However, in regard to a proposed pitch fee increase, there is a presumption that the pitch fee shall increase or decrease by reference to any change in RPI, unless it would be unreasonable having regard to Paragraph 18(1). In regard to this site, whilst the Respondents have alleged deficiencies regarding site repair and maintenance, the Applicant denies that the condition of the site has deteriorated, and the letter from the licensing authority as referred to in paragraph 11 above, referred to overall conditions on the site as being good. Accordingly, the

Tribunal considers in the absence of any clear and unequivocal evidence of deterioration in the condition, or decrease in the amenity of the site, as envisaged by Paragraph 18(1)(aa), that the presumption that the pitch fee shall increase by reference to RPI, should stand.

13. The Tribunal notes that the pitch fee review form appears to be in the form prescribed by the relevant regulations, and in accordance with the requirements of paragraph 25A(a) of Schedule 1 to the Mobile Homes 1983 (“the 1983 Act”).
14. The pitch review form proposes a new pitch fee, on the basis of an increase of 2.9% which appears to represent the retail prices index increase, over 12 months by reference to the RPI published for June 2019, and which would appear to be in compliance with the requirements of paragraphs 20(A1) and 25A(b) of Schedule 1 to the 1983 Act.
15. The application indicated that notice of the proposed new pitch fee was served on the Respondent on 1st August 2019. The pitch fee review form further provided that the proposed increase should take effect on 1st September 2019, being 28 clear days from the date of service. The pitch fee review forms each included an explanation of the various effects of paragraph 17 of Schedule 1 of the 1983 Act.
16. The pitch fee review form also specified the matters to which the amount proposed for the new pitch fee are attributable, as required by paragraph 25A(d) of Schedule 1 of the 1983 Act. Similarly, the form appears to satisfy the requirements of paragraphs 25A (e) and (f) of Schedule 1 to the 1983 Act.
17. Accordingly, the Tribunal is satisfied on the face of the documents as provided in the bundle, that the proposed pitch fee increase is reasonable.
18. We made our decision accordingly.

Judge P J Barber (Chairman)

A member of the Tribunal
appointed by the Lord Chancellor

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.