



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

Case Reference : CHI/43UG/PHI/2022/0027

Property : 57 Rose, Rose Park, Row Town,
Addlestone, KT15 1HN

Applicant : The Berkeley Leisure Group Ltd

Representative : -

Respondents : Mr P C Brickell

Representative : -

Type of Application : Review of Pitch Fee: Mobile Homes Act
1983 (as amended)

Tribunal Member : Mr W H Gater FRICS

Hearing : Decision on Papers

Date of Decision : 11 August 2022

DECISION

Background

1. On 14 March 2022 the Applicant site owner applied for a determination of the pitch fee of £167.69 per month payable by the Respondent as from 1 January 2022.
2. A Pitch Fee Review Notice dated 18 November 2021 was served on the occupier proposing to increase the pitch fee by an amount which the site owner says represents only an adjustment in line with the Retail Prices Index.
3. The Applicant confirmed by letter on 10 March 2022 that the application had been served on the Respondent.
4. On 12 May 2022 the Tribunal directed the Application to be determined on the papers unless a party objected within 28 days. The Tribunal received no objections.
5. The Tribunal accepted the application as the Applicants case. The Respondent was directed to confirm agreement or file a statement of case, and the Applicant was given the right of reply.
6. The Respondent submitted a written response and on 16 June 2022 the Applicant issued a bundle containing the submissions of both parties.
7. The Tribunal has had regard to all submissions in making its determination.

Evidence

8. The Applicant states that the last review was by agreement on 1 January 2021 and submits no evidence of improvements, relevant costs or reduction in services since that date.
9. The Applicant has restricted the increase in pitch fee having regard to the percentage increase in the RPI.
10. The Respondent made an undated written submission which in frank terms referred in the main to his sense that the site owners are uncaring and profit motivated. He pointed out that rising costs mean that residents, who are mainly elderly, cannot afford a gardener to deal with trees and bushes which need to be cut back. The soaring cost of gas, oil and electricity together with rising pitch fees were an issue. The Respondent also questioned the independence of the Tribunal.
11. The Applicant's reply pointed to expenditure of £20,000 on the maintenance of Rose Park and the fact that staff were maintained on site throughout the pandemic.

The Law

12. One of the important objectives of the 1983 Act is to standardise terms on which mobile homes are occupied on protected sites. All agreements to which the 1983 Act applies incorporate standard terms which are implied by the Statute. In the case of protected sites in England the statutory implied terms are those in Chapter 2 of Part 1 of Schedule 1 to the 1983 Act.
13. The Pitch Fee: Paragraphs 16-20 of those terms concern the pitch fee. A review of a pitch fee is governed by three statutory principles:
 - an annual review,
 - no change unless either agreed or determined by the Tribunal, and
 - a presumption of a change in line with the variation in RPI.

Paragraph 18 sets out factors to which the Tribunal must have particular regard in determining a pitch fee. The factors include improvements carried out or legislative changes affecting costs, and changes in amenities or services which have not previously been taken into account.

Consideration

14. Rose Park is a protected site within the meaning of the Mobile Homes Act 1983 (the 1983 Act).
15. The Respondent's right to station a mobile home on the pitch is governed by the terms of the Written Agreement with the Applicant and the provisions of the 1983 Act.
16. Date of review: The Applicant supplied a copy of a written agreement which has a commencement date of 31 October 1997. The pitch fee review date is shown in the Express Terms as 1 January in each year. That agreement was last assigned on 13 October 1999.
17. The Act provides that the pitch fee may only be reviewed annually as at the review date.
18. The increase in pitch fee. The Tribunal is required to determine whether the proposed *increase* in pitch fee is reasonable. The Tribunal is not deciding whether the level of pitch fee is reasonable.
19. Pitch fee is defined in paragraph 29 of Part 1 of Schedule 1 of the 1983 Act as:

"The amount which the occupier is required by the agreement to pay to the owner for the right to station the mobile home on the pitch and for use of the common areas of the protected site and their maintenance but

- does not include amounts due in respect of gas, electricity, water, sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts."
20. The Tribunal is required to have regard to paragraphs 18, 19 and 20 of Part 1 of Schedule 1 of the 1983 Act when determining a new pitch fee. Paragraph 20(1) introduces a presumption that the pitch fee shall increase by a percentage which is no more than any percentage increase or decrease in the RPI since the last review date.
 21. The Applicant has restricted the increase in pitch fee having regard to the percentage increase in the RPI shown on the notice at 6%.
 22. The Notice of Pitch Fee Review 18 November 2021 was made on the prescribed form. It proposes to increase the current fee of £158.69 per month to £167.69 per month.
 23. This is based on an increase of £9.29 per month or +5.86% with a reduction of £.29 as noted below.
 24. The Tribunal finds as a fact that the stated RPI figure of 6% is in line with published data at the time the notice was served.
 25. The fee is shown on the notice as being adjusted to add £3.64 per month for recoverable costs, ie resident skips and Local Authority licensing charges, and to deduct £3.93 for relevant deductions. No further explanation of the additions and subtractions is given. In the absence of this and any contrary evidence from the Respondent, noting that they result in a net reduction of £0.29 per month, the Tribunal makes no finding but accepts this adjustment to the fee.
 26. The Tribunal has carefully considered all submissions in detail.
 27. The Tribunal must point out in the context of a view expressed by the Respondent that it is entirely independent, and its Judges and Chairs are members of the judiciary having taken an oath of neutrality.
 28. The Respondent clearly feels strongly about rising costs and his relationship with the site owners. Nevertheless, these do not provide sufficient evidence that the pitch fee should not be increased as permitted by statute.
 29. The Tribunal is satisfied that that there is no evidence to displace the presumption that the pitch fee should be increased in line with RPI as noted. The Tribunal, therefore, confirms the increase.

Decision

30. The Tribunal determines that the proposed increase in pitch fee is reasonable, and the Tribunal determines a pitch fee of £ 167.69 with effect from 1 January 2022.

31. The Tribunal is minded to order the Respondent to reimburse the Applicant with the Tribunal application fee of £20. This order will take effect unless the Respondent makes representations in writing to the Tribunal on why he should not reimburse the fee by 14 days.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email 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.