



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

Case Reference : CHI/43UG/PHI/2022/0017

Property : 31 Albert Avenue, Penton Park, Mixnams Lane, Chertsey, KT16 8QG

Applicant : The Berkeley Leisure Group Limited

Representative : -

Respondents : Mr D J Mead

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 £165.58 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 Applicant's case. It required the Respondent to file a statement of case and serve it on the Applicant. The Applicant was given the right of reply. No submissions have been received from the Respondent.
6. As a preliminary issue the Applicant was directed to provide a statement on its legal authority for giving 1 January as the review date.
7. On 14 June 2022 the Tribunal notified the parties that as no submissions had been received from the Respondent, the Tribunal would dispense with the bundle and determine the matter on the application and documents provided.

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 to the percentage increase in the RPI.
10. The Respondent has made no submissions.

The Law

11. 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.

12. 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

13. Penton Park is a protected site within the meaning of the Mobile Homes Act 1983 (the 1983 Act).
14. 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.
15. Date of review: The Applicant supplied a copy of a written agreement dated 20 April 1976 which has a commencement date of 24 April 1976. The pitch fee review date is shown as the anniversary of the commencement date in each year i.e., 24 April. That agreement was assigned on 17 May 1982 with no change to the review date.
16. The Act provides that the pitch fee may only be reviewed on the relevant date being the anniversary of the date of commencement on the written agreement.
17. The Tribunal directed the Applicant to provide a statement, to be copied to the Respondent, on its legal authority for giving the review date of 1 January.
18. The Applicant did not reply as directed and was given an extension to 26 May 2022 to provide a statement. On 25 May 2022 the Applicant stated that for at least seven years (since computerised records began) and probably for some considerable time before that, the Respondent has accepted pitch fee reviews on 1 January. The Respondent has not disputed the accuracy of that statement.
19. In the absence of evidence to the contrary from the Respondent, the Tribunal accepts the Applicant's statement, and finds that the relevant date for the pitch fee review, by the conduct of the parties, has been changed to 1 January.

20. 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.
21. Pitch fee is defined in paragraph 29 of Part 1 of Schedule 1 of the 1983 Act as:
22. "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."
23. 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.
24. The Applicant has restricted the increase in pitch fee having regard to the percentage increase in the RPI.
25. The Notice of Pitch Fee Review 18 November 2021 was made on the prescribed form. It proposes to increase the current fee of £156.23 by £9.35 per month. This is based on an increase of £9.35 per month or +6%.
26. The fee is shown on the notice as being adjusted to add £0.44 per month for recoverable costs and to deduct £0.44 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 figure of £0 per month, the Tribunal makes no finding but accepts this nil adjustment to the fee.
27. 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.
28. The new pitch fee proposed is £165.58.
29. The Respondent has not communicated with the Tribunal or responded to directions. The Tribunal is satisfied that there is no evidence to displace the presumption that the pitch fee should be increased in line with RPI. The Tribunal, therefore, confirms the increase.

Decision

30. The Tribunal determines that the proposed increase in pitch fee is calculated in accordance with the Act. The Tribunal determines a pitch fee of £165.58 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.