



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

Case Reference : CHI/19UG/PHI/2022/016478

Property : 4 Hoburne Park, Swanage, Dorset BH19
2RD

Applicant : Beachtide Limited

Representative : Tozers LLP

Respondent : Mr Gary Tull and Mr Mark Tull

Representative :

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

Tribunal members : Judge Dobson
D Banfield FRICS, Regional Surveyor
Mrs J Coupe FRICS Valuer Chair

Date of Decision : 15 June 2023

DECISION

Summary of Decision

The Tribunal determines that the proposed increase in pitch fee for 4 Hoburne Park, Swanage, Dorset BH19 2RD is reasonable and determines a pitch fee of £2,348.81 per year with effect from 29 September 2022.

Background

1. On 19 December 2022 the Applicant site owner sought a determination of the pitch fee of £2,348.81 per year payable by the Respondents as from 29 September 2022. This was one of fifteen similar applications, two of which were subsequently withdrawn with two being listed for an oral hearing.
2. A Pitch Fee Review Notice dated 17 August 2022 with the prescribed form was served on the occupiers 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. On 22 February 2023 the Tribunal directed the Application to be determined on the papers without an oral hearing unless a party objected within 28 days. No objections were received from the parties.
4. The Directions provided that the application form and accompanying papers should stand as the Applicant's statement of case.
5. The Tribunal additionally asked the Applicant to address one particular matter arising from the documentation submitted, namely the Schedule 4 Assignment Form from the previous owner to the Respondents. The Tribunal said:

“The Tribunal notes from a Schedule 4 Assignment Form that the Respondents took occupation of the said pitch on 31 August 2022.

Further it is also noted that within that form the “next pitch fee review date” is “1 October 2022” which is not the same date as that given on the Pitch Fee Review Notice and Review Form attached to this application.

The Tribunal would be grateful to receive clarification regarding this observation by 1 March 2023, i.e. they must show evidence of the review date being varied or the Respondent knowingly agreeing to ‘it’.
6. The Respondents were invited to prepare a statement indicating whether they agreed or disagreed with the application. However, no response was received.

7. In the Applicant's Statement of case dated 6 April 2023 is a description of the process followed and an application for the reimbursement of the application fee of £20 under Rule 13(2).
8. The Applicant's Statement of Case also addresses matters not raised by this Respondent and which the Tribunal has not therefore addressed.

Consideration

9. Hoburne Park is a protected site within the meaning of the Mobile Homes Act 1983 ("the 1983 Act"). The definition of a protected site in Part 1 of the Caravan Sites Act 1968 includes a site where a licence would be required under the Caravan Sites and Control of Development Act 1960 if the exemption of local authority sites were omitted.
10. The Respondents' right to station their mobile home on the pitch is governed by the terms of their Written Agreement with the Applicant and the provisions of the 1983 Act.
11. The Applicant served the Respondents with the Notice and prescribed form proposing the new pitch fee on 17 August 2022, which was more than 28 days prior to the review date of 29 September 2022. The Application to the Tribunal to determine the pitch fee was made on 19 December 2022 which was within the period starting 28 days to three months after the review date. The form indicated that the Applicant had applied the RPI of 12.3404 per cent applying the mid July figure published in August.
12. The Tribunal is satisfied that the Applicant has complied with the procedural requirements of paragraph 17 of Part 1 of Schedule 1 of the 1983 Act to support an application for an increase in pitch fee in respect of the pitch occupied by the Respondents.
13. The Tribunal has considered a letter sent by email by the Applicant's representative dated 28th February 2023 in response to the query posed by the Tribunal and referred to above. The Applicant's position was said to be:

"The Applicant was not a party to the Schedule 4 Assignment Form. This was completed by the former homeowner and signed by her and the Respondents. The reference within the Schedule 4 Assignment Form to a pitch fee review date of 1 October 2022 is incorrect. The written statement gives a review date of 29 September. As far as the Applicant is aware, reviews have always taken place on the 29 September. There has been no variation to the review date."
14. The Tribunal accepts that as correct and that nothing further need to be considered in relation to that matter.
15. The Tribunal does observe that the above letter as not included in the bundle, causing some confusion as to whether the point had been

addressed and some inconvenience and wastage of time. The Tribunal was close to not determining the application in the absence of an apparent response to the query and the Applicant is perhaps fortunate that the Tribunal chanced upon the letter. The Applicant and representative would do well to bear that in mind for future cases.

16. The Tribunal is required to determine whether the proposed increase in pitch fees is reasonable. The Tribunal is not deciding whether the overall level of pitch fee is reasonable.
17. 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.
18. Both current and proposed pitch fees include recoverable costs of £7.00. The Applicant has restricted the increase in the pitch fee less those costs to the percentage increase in the RPI and in view of the presumption referred to in paragraph 13 above and in the absence of any matters being raised which go to rebut that presumption the Tribunal finds that the proposed increase in pitch fee is reasonable.

Decision in respect of the pitch fee

19. Given the above circumstances the Tribunal determines that the proposed increase in pitch fee for 4 Hoburne Park, Swanage, Dorset BH19 2RD is reasonable and determines a pitch fee of **£2,348.81 per year with effect from 29 September 2022.**

Costs

20. The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party (which has not been remitted) pursuant to rule 13(2) of The Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013.
21. Given the Respondents' failure to engage with these proceedings the Tribunal is minded to order the Respondents to reimburse the Applicant with the Tribunal application fee of £20. This order will take effect unless the Respondents make representations in writing to the Tribunal on why they should not reimburse the fee by **29 June 2023**

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 rpsouthern@justice.gov.uk 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.