



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

Case Reference : CHI/19UG/PHI/2022/0170

Property : 35 Hoburne Park, Swanage, Dorset
BH19 2RD

Applicant : Beachtide Limited

Representative : Tozers LLP

Respondent : Mrs Hazel Frost

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 : 20 June 2023

DECISION

Summary of Decision

The Tribunal determines that the proposed increase in pitch fee for 35 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 Respondent 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 This was one of fifteen similar applications, two of which were subsequently withdrawn with two being listed for an oral hearing.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 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. 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 Respondent was invited to prepare a statement indicating whether she agreed or disagreed with the application. However, no response was received.
6. 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).
7. The Applicant's Statement of Case also addresses matters not raised by this Respondent and which the Tribunal has not therefore addressed.

Consideration

8. 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.
9. 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.

10. The Applicant served the Respondent with the 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 percent applying the mid July figure published in August.
11. 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 Respondent.
12. 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.
13. 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.
14. 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

15. Given the above circumstances the Tribunal determines that the proposed increase in pitch fee for 35 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

16. 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.
17. Given the Respondents' failure to engage with these proceedings 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 she 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.