



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

Case Reference : CHI/19UD/PHI/2023/0104

Property : 36 Pinehurst Park, West Moors, Ferndown,
Dorset, BH22 0BW

Applicant : Pinehurst Park Homes Limited

Representative : Apps Legal Ltd

Respondent : Mr P Warn

Representative :

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

Tribunal members : Mrs J Coupe FRICS

Date of Decision : 18 August 2023

DECISION

Summary of Decision

The Tribunal determines that the proposed increase in pitch fee for 36 Pinehurst Park, West Moors, Ferndown, Dorset, BH22 0BW is reasonable and determines a pitch fee of £255.56 per month with effect from 1 January 2023.

Background

1. On 27 March 2023 the Applicant site owner sought a determination of the pitch fee of £255.56 per month payable by the Respondent as from 1 January 2023.
2. A Pitch Fee Review Notice dated 21 November 2022, with the prescribed form, was served on the Respondent on 25 November 2022. The Notice proposed an increased pitch fee, by an amount which the site owner says represents an adjustment in line with the Retail Prices Index (“RPI”), albeit reduced to 11%.
3. On 26 June 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 he agreed or disagreed with the application and to provide any objection to the proposed pitch fee document and any witness statements or documents upon which he sought to rely. However, no response was received.
6. The Applicant has submitted an electronic bundle comprising 410 pages which include the application and a signed witness statement from the park manager, Mr Joe Jobling, dated 26 March 2023.
7. Included within Mr Jobling’s statement is a description of the pitch fee review process undertaken by the Applicant. Reference is also made to a number of meetings held with various interested parties including the chairman of the Residents Association, Mr Clive Laban, the residents and with members of the Residents Association, the purpose of said meetings being to discuss the proposed pitch fee reviews.
8. Mr Jobling’s statement also addresses matters not raised by the Respondent and which the Tribunal has not therefore addressed.

Consideration

9. Having reviewed the application and submissions I am satisfied that the matter remains suitable for determination on the papers. Both parties have been afforded an opportunity to make submissions, albeit that the Respondent has chosen not to do so. Accordingly, I find there to be no factual dispute.
10. Pinehurst Park is a protected site within the meaning of the Mobile Homes Act 1983 (“the 1983 Act”), comprising one hundred and ninety six mobile homes. 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.
11. 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.
12. The Applicant served the Respondent with the prescribed form proposing the new pitch fee on 25 November 2022, which was more than 28 days prior to the review date of 1 January 2023. The form was dated 21 November 2022.
13. The application to the Tribunal to determine the pitch fee was made on 27 March 2023 which was within the period starting 28 days to three months after the review date. The form indicated that the Applicant adopted the October 2022 RPI figure of 14.2% as published in November 2022, albeit reduced to 11% as a one-off gesture of goodwill.
14. I am 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.
15. 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.
16. 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.
17. The Applicant has adopted an increase in the pitch fee in accordance with the percentage increase in the RPI, which the Applicant then reduced by 3.2% for goodwill, arriving at a final increase of 11%. In view of the presumption referred to in paragraph 16 above and in the absence of any matters being raised by the Respondent which go to

rebut that presumption, I find that the proposed increase in pitch fee is reasonable.

Decision

18. For the reasons set out above I determine that the proposed increase in pitch fee for 36 Pinehurst Park, West Moors, Ferndown, Dorset, BH22 0BW is reasonable and I determine a pitch fee of **£255.56 per month with effect from 1 April 2023.**

Costs

19. 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.
20. 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 he should not reimburse the fee by **25 August 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.