



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

Case Reference : CHI/45UB/PHI/2023/0197

Property : 48 Summerlands Court,
Summerlands Court Park, Liverton,
Newton Abbot TQ12 6HB

Applicant : The Berkeley Leisure Group Ltd

Representative : Mr Steve Drew

Respondent : Mr and Mrs C Smith

Representative :

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

Tribunal members : Judge Whitney
Judge Dobson
Mrs J Coupe FRICS Valuer Chair

Date of Decision : 8th September 2023

DECISION

Summary of Decision

The Tribunal determines that the proposed increase in monthly pitch fee for 1st January 2023 onwards is reasonable and determines a pitch fee of £217.41 per month with effect from 1st January 2023.

Background

1. On 9th March 2023 (the application states 2022 but that is plainly an error) the Applicant site owner sought a determination of the pitch fee of £217.41 per month payable by the Respondent as from 1st January 2023.
2. A Pitch Fee Review Notice dated 17th November 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 an adjustment in line with the Retail Prices Index (“RPI”).
3. On 3rd July 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. The Respondent has raised objections as explained below.
6. In the Applicant’s statement is a brief description of the process followed.
7. The Tribunal understands that the Applicant wishes to make an application for the reimbursement of the application fee of £20 under rule 13(2) of The Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013.

Consideration

8. Summerlands Court 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 Respondent’s 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. A copy of the Agreement has been supplied.

10. A pitch fee is payable by the Respondent. 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."

11. The Applicant served the Respondent with a notice and the prescribed form proposing the new pitch fee on 25th November 2022, which was more than 28 days prior to the review date of 1st January 2023. The Application to the Tribunal to determine the pitch fee was made on 9th March 2023 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 14.2% percent applying the mid October 2022 figure.
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 Respondent.
13. 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.
14. 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 and applies unless factors identified in paragraph 18 are demonstrated so that presumption does not apply. If the presumption does apply, it may be rebutted but only by other factors which are sufficiently weighty to do so.
15. The Respondent in their objection to the increase, has firstly asserted that that the pitch fee is high in comparison to pitch fees on other sites, whereas the site has limited facilities, and refers to the extent of the increase. The Applicant has responded stating that pitch fee reflects the fee originally agreed for the pitch and the RPI since then. The Tribunal accepts the Applicant's argument, determining that the pitch fee payable for other pitches, whether on the site itself or other sites, is not under the 1983 Act a relevant factor in relation to the appropriate pitch fee for the pitch occupied by the Respondent. The Tribunal repeats that it is not deciding the reasonableness of the pitch fee overall. As the

amount of the increase reflects that and nothing more is said by the Respondent, the Tribunal does not consider that objection to be made out.

16. It is also said by the Respondent that Mr Smith is registered disabled and it is not possible for a wheelchair to access the gate to the bus-stop and Post Office. The Applicant says that it has responded to those concerns. Whilst the Applicant trusts that suitable access will be facilitated if possible and the Tribunal notes that the Applicant may have obligations in that regard, the Tribunal does not consider that the issue has been demonstrated to amount to deterioration in the condition of the site or decline in amenity on the evidence provided and neither is it a sufficiently weighty matter to rebut the presumption explained above.
17. The Applicant has restricted the increase in the pitch fee to the percentage increase in the RPI and in view of the presumption referred to in paragraph 14 above and in the absence of any matters being raised which prevent that presumption applying or then go to rebut that presumption, the Tribunal finds that the proposed increase in pitch fee is reasonable.

Decision in respect of the pitch fee

18. Given the above circumstances the Tribunal determines that the proposed increase in monthly pitch fee for 1st January 2023 onward is reasonable and determines a pitch fee of £217.41 per month with effect from 1st January 2023.

Fees

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. 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 22nd September 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.