



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

Case Reference : CHI/45UB/PHI/2023/0182

Property : 1 Maple Avenue, New Park, Asburton
Road, Bovey Tracey, TQ13 9FR

Applicant : The Berkeley Leisure Group Ltd

Representative : None

Respondent : Mrs Denise Said

Representative : None

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 : 15 September 2023

DECISION

Summary of Decision

The Tribunal determines that the proposed increase in pitch fee for 1 Maple Avenue, New Park, Ashburton Road, Bovey Tracey, TQ13 9FR is reasonable and determines a pitch fee of £208.87 per month with effect from 1 January 2023.

Background

1. On 9 March 2023 (the application states 2022 but that is plainly an error) the Applicant site owner sought a determination of the pitch fee of £208.87 per month payable by the Respondent as from 1 January 2023. This was one of a number of similar applications.
2. A Pitch Fee Review Notice dated 17 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 3 July 2023 the Tribunal directed the Application 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.
6. In a letter dated 22 May 2023, addressed to the Applicant, the Respondent set out her objections to the proposed pitch fee. The Respondent also submitted representations to the Tribunal, by email on 24 July 2023. The Applicant suggested that a copy of these later representations had not been provided to the Applicant. However, in the event, such submissions repeated those in the above letter to the Applicant and no prejudice was therefore caused. The Tribunal does not consider it necessary for any reply to be sought from the Applicant in the circumstances.
7. The Applicant has submitted the application and an Applicant’s Statement from a Director Mr Steve Drew, dated 4 August 2023. The statement contains a description of the process followed.

Consideration

8. New 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 the prescribed form proposing the new pitch fee on 17 November 2022, which was more than 28 days prior to the review date of 1 January 2023. The Application to the Tribunal to determine the pitch fee was made on 9 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. In her submissions the Respondent set out her reasons for objecting to the proposed pitch fee, which are summarised as follows:
 - i. The level of increase is unreasonable, unjustified and not in line with inflation.
 - ii. The proposed increase equates to £435.84 in two years. Such sums are unaffordable and the Respondent is concerned about future reviews.

- iii. The Respondent's mobile home and garden are well maintained at her own expense, whilst utilities are paid separately.
 - iv. The site is *"very basic. There is no security, and numerous times I have gone to the office, and it has been closed!"*
 - v. Selling fees are prohibitively high.
 - vi. *"There have been no changes and no improvements to the site since my time living here! [sic] in fact no major changes have been made for over 15 years?"*
 - vii. The proposed increase is causing stress, worry and the Respondent is *"deeply unhappy living here right now, I feel trapped. If I could move tomorrow I would!"*.
16. The Applicant's response is summarised as follows:
- i. The proposed increase is in line with inflation.
 - ii. The business has seen its costs rise significantly over recent months (as at 5 June 2023).
 - iii. The Respondent has been offered discounts to off-set indexation.
 - iv. The Respondent has been reminded about the office opening hours (said normally to be Monday to Friday 9am until 12 noon and 1pm to 4pm) and has been requested to provide dates when the office was found to be closed.
 - v. The Applicant refutes the suggestion that there is little investment or improvement in the Park, referring to an active workforce who undertake regular maintenance.
 - vi. Commission on a resale of a pitch/home is not a relevant consideration in a pitch fee review.
17. The Applicant has restricted the increase in the pitch fee to the percentage increase in the RPI as per the presumption in paragraph 14 above. In determining whether the presumption applies, the Tribunal must have regard to the matters identified in paragraphs 18 and 19 Part 1 of Schedule 1 of the 1983 Act.
18. In this matter paragraph 19 does not apply because there is no evidence that the proposed increase in the pitch fee included costs which were specifically excluded by that paragraph. Similarly, the Applicant was not including costs relating to any improvements within the proposed fee.
19. It appears to the Tribunal that the Respondent's case rested on whether there had been any reduction in the services that the site owner provides i.e. the opening hours of the site office (in so far as regard has not previously been had to that deterioration or reduction).
20. The Tribunal has been provided with no evidence to substantiate the suggestion that the site office has been closed on occasion when the Applicant sought to attend. Furthermore, the Applicant rebuts such submission, instead asserting that the office is adequately staffed during the working week, although acknowledging that there may be

occasion when staff are away from the office, during which time a notification is displayed. The Tribunal finds no evidence that there has been a reduction in the service provided on this point.

21. The Tribunal does accept that the Respondent is dissatisfied with the proposed level of increase and that she considers that the increase is not in-line with inflation. However, the Applicant has restricted the increase in the pitch fee to the percentage increase in RPI and, as such, an assertion that the proposed increase is not in-line with inflation is incorrect.
22. The Tribunal understands the assertion of the rise not being in line with inflation as being the basis for it being unreasonable and unjustified. If that is not correct, the Respondent has not sufficiently explained any other basis for unreasonableness or lack of justification. In consequence, in this instance the Respondent has not provided a basis for there being any other factor which may go to rebut the presumption of an increase in line with RPI, still less one of enough weight to do so.
23. The additional points raised by the Respondent, whilst undoubtedly important to the Respondent in their own right, are not relevant considerations under paragraph 18 of the Act for the purpose of determining a pitch fee.
24. Accordingly, the Tribunal finds that the points raised by the Respondent are not sufficient to prevent the presumption referred to in paragraph 14 above from applying and there is no other factor of sufficient weight to rebut that presumption. The Tribunal therefore finds that the proposed increase in pitch fee is reasonable.

Decision in respect of the pitch fee

25. Given the above circumstances the Tribunal determines that the proposed increase in pitch fee for 1 Maple Avenue, New Park, Ashburton Road, Bovey Tracey, TQ13 9FR is reasonable and determines a pitch fee of **£208.87 per month with effect from 1 January 2023.**

Fees

26. 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.
27. The Tribunal is minded to order the Respondent to reimburse the Applicant with the Tribunal application fee of £20.00. This order will take effect unless the Respondent makes representations in writing to

the Tribunal on why she should not reimburse the fee by **27 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.