



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

Case Reference : CHI/24UC/PHI/2023/0232

Property : 1 Camelia Crescent, Oakwood Court, Borden,
Hampshire GU35 9HX

Applicant : Bordon Park Limited

Representative : IBB Law LLP
john.clement@ibblaw.co.uk

Respondent : Linda Christine and Tony William Green

Representative : -

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

Tribunal member : W H Gater FRICS
Regional Surveyor

Date of Decision : 16 November 2023

DECISION

Summary of Decision

The Tribunal determines that the proposed increase in pitch fee for 2023 is reasonable and determines a pitch fee of £276.40 per month with effect from 1 January 2023.

Background

1. In an application made 31 March 2023 the Applicant site owner sought a determination of the pitch fee of £276.40 per month, payable by the Respondent from 1 January 2023. This was one of several similar applications.
2. A Pitch Fee Review Notice dated 1 December 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 21 September 2023 the Tribunal directed the Application to be determined on the papers without an oral hearing unless a party objected within 28 days.
4. The Tribunal has received objections from other Respondents included in the application, but the Respondents in this case have not.
5. The application for 1 Camelia Crescent will therefore, now be determined on the papers in accordance with the directions dated 21 September 2023.
6. The Directions provided that the application form and accompanying papers should stand as the Applicant’s statement of case.
7. The Respondent was invited to prepare a statement indicating whether they agreed or disagreed with the application. No response was received.

Consideration

8. Oakwood Court 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 sample copy of the Agreement has been supplied.

10. The Applicant submitted that it is common ground that each of the Respondents has an agreement with the Applicant which is regulated by the Mobile Homes Act 1983 (as amended), and therefore it may help save time and costs if the individual written statements could be omitted from the bundle, given that the statutory implied terms in paragraphs 16-20 of Schedule 1, Part 1 (which govern the annual pitch fee review process) will apply to each of the Respondents' agreements in any event. In the interests of the overriding objective to dispense with this case in a timely manner, restricting costs.
11. 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."
12. The Applicant served the Respondent with the prescribed form proposing the new pitch fee on 1 December 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 31 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 figure published for the 12 months to October 2022.
13. 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.
14. 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.
15. 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.

16. In an answer to a question on the application form, the Applicant indicates that there has been no deterioration in the condition and/or any decrease in the amenity of the site, or any adjoining land which is occupied by the owner, since 26 May 2013 (in so far as regard has not been had to that deterioration or decrease on a previous pitch fee determination. There has been no evidence by way of rebuttal from the Respondents.
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 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 pitch fee is reasonable and determines a pitch fee of **£276.40 per month with effect from 1 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. Given the Respondent's failure to engage with these proceedings the Tribunal is minded to order the Respondent to reimburse the Applicant with the Tribunal application fee of £20.00.
21. The Respondent may make representations in writing to the Tribunal by **1 December 2023** as to why they should not reimburse the application fee.
22. If the Respondent makes representations, those will be considered. The Tribunal will provide a further order in respect of re-imburement following consideration of the representations.
23. In the absence of representations being made, the order that the Respondent reimburses the fee of £20.00 will automatically take effect without further order on 2 December 2023. The fee is then payable by 18 December 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.