



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

Case Reference : CHI/46UD/PHI/2023/0487 &0488

Property : 46 & 69 Heath Farm, Heath Farm Caravan
Park, Barford St Martin, Salisbury,
Wiltshire, SP3 4BH

Applicant : General Estates Company Limited

Representative :

Respondent : Mrs J Randall (46)
Mr S Green (69)

Representative :

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

Tribunal members : D Banfield FRICS, Regional Surveyor
J Reichel BSc MRICS
M Jenkinson

**Date and place of
hearing** : 15 February 2024 at Salisbury Law Courts

Date of Decision : 22 February 2024

DECISION

BACKGROUND

1. An application has been made for the determination of a pitch fee increase. The Applicant says they have served Pitch Fee Notices.
2. The application was received on 23 April 2023.
3. The Pitch Fee Notices were dated 20 December 2022 and served as 'late reviews' effective from 1 February 2023, rather than the Review Date which is confirmed in the Written Agreement as the second day of January in each year.
4. Directions were issued on 7 November 2023 setting a timetable for the exchange of documents preparatory to a determination on the papers unless a party objected in writing.
5. The Respondents were asked to complete a reply form and send any objection and supporting documentation to the Applicant and the Tribunal by 28 November 2023.
6. The Tribunal received objections from both Respondents and therefore, considered that a hearing was necessary.
7. It was proposed that the two applications were joined unless any party objected. No such objection has been received.
8. The matter was therefore set down for hearing on Thursday 15 February 2024 at Salisbury Law Courts immediately following an inspection of the site.
9. In accordance with Directions the Applicant has prepared a paginated hearing bundle.

The Law

10. 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.
11. A pitch fee is payable by each 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 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 18(1) specifies a number of matters to which "particular regard shall be had" when determining the amount of the new pitch fee, including: -

18(1) (aa) in the case of a protected site in England, *any deterioration in the condition, and any decrease in the amenity, of the site or any adjoining land* [emphasis added] which is occupied or controlled by the owner since the date on which this paragraph came into force (in so far as regard has not previously been had to that deterioration or decrease for the purposes of this subparagraph);

(ab) in the case of a protected site in England, *any reduction in the services that the owner supplies to the site, pitch or mobile home, and any deterioration in the quality of those services*, [emphasis added] since the date on which this paragraph came into force (in so far as regard has not previously been had to that reduction or deterioration for the purposes of this subparagraph).

13. Paragraph 20 states;

(A1) Unless this would be unreasonable having regard to paragraph 18(1), there is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the retail price index calculated by reference only to-

(a) the latest index, and

(b) the index published for the month which was 12 months before that to which the latest index relates.

(A2) In sub-paragraph Paragraph (A1), "the latest index" –

(a) in a case where the owner serves a notice under paragraph 17(2), means the last index published before the day on which that notice is served;

(b) in a case where the owner serves a notice under paragraph 17(6), means the last index published before the day by which the owner was required to serve a notice under paragraph 17(2).

14. Paragraph 17 is in respect of the annual review of pitch fees the relevant paragraphs of which are;

(2) At least 28 clear days before the review date the owner shall serve on the occupier a written notice setting out his proposals in respect of the new pitch fee.

(6) Sub paragraphs (7) to (10) apply if the owner-

(a) has not served the notice required by sub paragraph (2) by the time by which it was required to be served

(b) at any time thereafter serves on the occupier a written notice setting out his proposals in respect of a new pitch fee.

Paragraphs (7) to (10) are in respect of the payment of the revised pitch fee.

15. Paragraph 16 of the 1983 Act states that the pitch fee can only be changed by the FTT if it “considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee”.
16. The task for the Tribunal is therefore to determine whether it is reasonable to change the pitch fee and if so, whether the issues raised by the Respondents are of sufficient weight to dislodge the presumption that the pitch fee should rise by no more than the RPI.

Inspection

17. The Tribunal inspected the site at 10.00am immediately prior to the hearing. We were met by the Applicant but in the absence of the Respondents we conducted our inspection alone. During our inspection we noted some areas of tarmacadam requiring attention. We noted that the garage blocks were somewhat tired and that one door was missing. We saw the vacant pitches referred to and a small area of concrete later explained as the site of the former wash house. Overall we considered that the site was satisfactorily maintained.

Submissions

No 46

18. The Respondent states that;
 - Since I have been on this site the pitch fee has increased by the maximum allowed % every year, and no objection has been made despite no improvements to the site.
 - This year the % is 14.2 due to the latest increases in RPI.
 - If GE rebate a month then why increase the full 14.2% and not use the actual % for those who accept the increase, instead of creeping the rent up so the % increase is higher next year
 - If the new rent is 170.44 per mth, that is 2045.28 per year, with the rebate of 170.44 that gives total for 2022 at 1874.84 for ground rent so for 2022 if you have 1874.84, this works out at 156.24 per month which is approx. 6.5% rise.

- By adding the rate at 14.2% with an incentive to accept you are then increasing the basis of any percentage increase next year as well. So if GE are not taking the 14.2% this year, why not use the actual % of the increase for this year. Instead of offsetting a % increase for next year while RPI rates are high now.
 - Attached emails from GE pointing out that the pension increase is 10%. This site is for over 55, not over 70 - I don't have a pension, I work and my payrise this year was 4%, at the moment I can afford the rent but when I do retire the rent will be over a week's pension and probably by then nearer 2 weeks pension. So at some point the rent will be unaffordable, especially if the full allowed amount is increased every time.
 - Also have contradiction in pitch fee in email– one item says is for siting home only, other informs covers maintenance of site, not sure which is correct.
19. In response the Applicant states that;
- The Applicant is not seeking to recover any costs of improvement and funds are regularly spent on improving the park
 - In March 2022 £6,300 was spent on a new mower, an additional 6 hours per week on garden maintenance, £47,000 on electrical remedial works over 2023 and 2024 and in April 2022 £12,000 spent on resurfacing the tarmac at the entrance.
 - The Applicant was not obliged to make a goodwill gesture the terms of which are a decision for the Applicant.
 - Whilst sympathetic to the respondent's personal circumstances these are not grounds for refusing to pay the pitch fee.
 - The Respondent has not raised grounds to rebut the presumption contained in the Mobile Homes Act 1983

No 69

20. The Respondent states that;
- The property is not a caravan on a caravan site as suggested by the landlord.
 - We purchase, maintain and develop our own homes and are required to give the landlord 10% of the sale price when we leave. In return we expect the landlord to continuously maintain all areas of the site to a reasonably safe and respectable condition.
 - Repairs carried out are only those that are essential, even then, they are not done promptly, or adequately.
 - Areas in need of attention include; site roads (disintegrating), garages (falling apart and leaking), empty plots (overgrown and unsightly) and general ground keeping (of areas that are not attended to by site manager); to which the landlords solution is to 'blitz' when complained about and are not completed to a satisfactory condition.

- There are two empty plots, one of which has been so for 6 years. The losses of pitch fees for these empty plots we presume are passed on to existing residents. Accounts for this site are not made available. All accounts presented are for The General Estates which do not show any breakdown for the individual sites. We have been informed they now have over 30 sites. Any profits from this site could, therefore, be used to make improvements to their other sites.
- Considering all the work that is required here to maintain this site to decent standard, any available funds could be being spent on the landlords other sites and our pitch fee increase helps pay for them.
- The proposed increase 14.2% is an inflation rate that was temporarily high based on current events at the time, and was expected to fall significantly, which they have. We believe the current rate now is 4.6% and falling.
- Old pitch fee was - £149.25 New proposed pitch fee is - £170.44; an increase of £21.19 per month. £254.28 extra per annum!
- On top of this we have to pay the landlords for electricity and water they supply.
- We are pensioners and feel that all the recent Government help towards our cost of living; which does not include an amount for rent increase, will be swallowed up by the landlords increasing rent levels leaving us worse off and living on an increasingly deteriorating site. We understand our pension is only being increased by 8%!
- We recognise that the law allows for landlords to have the right to increase rent each year, but we suggest that this is not compulsory and circumstances should be taken into account. We do not think that the government, at the time the law was passed, realised the impact like the sudden large jump in inflation would have on tenants like us and the continued exploitation of future normalised yearly rent increases.
- Our concern is that, by paying the rent increase as proposed, based on the over inflated rate will, in future years, not be taken into account and further increases will always be demanded at the maximum the law allows; so future payments will not include any adjustments down to compensate for the exceptionally high year.
- The landlord had offered a one off 'goodwill gesture' of £170.44 credit but we suspect this was a tactic to encourage residents to quickly accept the higher rent, not realising the implications of the agreement; all future increases will be based and added to this year's over inflated rate.
- The next increase for 2024 (and all those that follow in subsequent years) we guess will increase again by as much as the Govt. allows and would result in The General Estates capitalising on last year's unfortunate events! We calculate that the goodwill gesture, if it is only a one off, would be 'recovered' within four years.
- In light of the current reversal of inflation rate, we would expect The General Estates to review their pitch fee for this year in line with

current inflation rates as a true gesture of goodwill. The current demand for a pitch fee increase of 14%, although their legal right is just giving them an ongoing windfall in detriment to the residents of this park home site.

21. In response the Applicant states that;

- The mobile home is a caravan for the purposes of the legislation and the use of the term is not incorrect
- The Applicant denies that the park is not maintained. Several areas of grassland are cut and maintained every two weeks
- In March 2022 £6,300 was spent on a new mower, an additional 6 hours per week on garden maintenance, £47,000 on electrical remedial works over 2023 and 2024 and in April 2022 £12,000 spent on resurfacing the tarmac at the entrance. The costs were not sought to be recovered from the homeowners.
- A new home has now been sited on pitch 32, improving the outlook.
- Maintenance is an ongoing responsibility and inevitably there will be times when work is outstanding. It is denied that the Applicant does not comply with their obligations to maintain the communal areas.
- It is denied that the loss from empty pitches are recovered from any other homeowner at the park. The Applicant is reviewing the pitch fee in accordance with the Mobile Homes Act and seeking an inflationary rise in line with current costs. The Applicant is entitled to use RPI as a measure of inflation.
- Utilities are recharged at cost and the Applicant has entered into 3-year agreements to minimise those in respect of electricity
- The Applicant was not obliged to make a goodwill gesture the terms of which are a decision for the Applicant.
- The proposed increase would not result in a windfall. The Applicant's costs have increased substantially in the last two years some in excess of the general price inflation.

Hearing

22. At the hearing Mrs Randall reiterated her written objections and that it would have been fairer if the proffered rebate had been made by reducing the percentage increase.

23. Mr Green said that in referring to their dilapidated condition he had previously rented a garage but due to its leaks had ceased to do so. He referred to the various pot holes and the increasing demands on parking on the site some parts of which were subject to flooding. Mr Green said that whilst he accepted that the Applicant was entitled to make the increase based on RPI he should have a moral duty to accept a lesser amount.

24. In response Mr Percy said that his offer of a rebate was a goodwill gesture just to help out. He said that overall the site roads were OK but that the ground conditions reflected an increase in rainfall. He said that he was not satisfied with the 40 tons of stone laid last year which is why shingle had been laid to improve drainage. Although not relevant to the pitch fee increase he acknowledged that the garages were not in good repair.
25. In support of the use of 14.2% Mr Percy said that many of his costs had risen by more than the RPI and referred to labour and materials increasing by 25% or more. In answer to a question from the Tribunal he said that he was not willing to accept a lower increase.

Consideration

26. Heath Farm Caravan 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.
27. 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.
28. The Applicant served the Respondents with the prescribed form proposing the new pitch fee on 20 December 2023, which was more than 28 days prior to the late review date of 1 February 2023. The Application to the Tribunal to determine the pitch fee was made on 23 April 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 per cent applying the figure published in October 2022.
29. Given that this was a late review the Tribunal first of all considered whether the correct RPI period had been used. The notice had been served under paragraph 17(6)(b) and as such comes within paragraph 20(A2) (b) which is defined as “*the last index published before the day by which the owner was required to serve a notice under paragraph 17(2)*”. As such, the RPI period remains unchanged, the only effect of the late review date being that the increase comes into effect one month later.
30. The Tribunal is therefore 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 Respondents.
31. The Tribunal then considered whether any of the matters raised by the Respondents were of such a nature as to fall within paragraph 18(1) and

determined that they did not. As referred to above, at its inspection the Tribunal found the site to be in a satisfactory condition with only minor areas of repair required.

32. 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.
33. 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 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.
34. The Tribunal is not able to take into account the personal circumstances of the parties in making its determinations.

Decision in respect of the pitch fees

35. Given the above circumstances the Tribunal determines that the proposed increase in pitch fees for 46 and 69 Heath Farm, Heath Farm Caravan Park, Barford St Martin, Salisbury, Wiltshire, SP3 4BH is reasonable and determines a pitch fee of **£170.44 per month for each pitch with effect from 1 February 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.