



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

Case Reference	:	CHI/00HG/PHI/2023/0577
Property	:	5 Sycamore Way, Glenholt Park, Glenfield Road, Plymouth, PL6 7NQ
Applicant	:	The Berkeley Leisure Group Ltd
Representative	:	
Respondent	:	Mrs Margaret Knight
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 L Packer
Date of Decision	:	4 March 2024

DECISION

The Tribunal determines that the Respondent is required to pay a pitch fee of £161.65 per month, with effect from 1 April 2023 until further review.

BACKGROUND

1. On 20 February 2023, the Applicant site owner served a Pitch Fee Review Notice on the Respondent proposing an increase in pitch fee from £142.55 per month to £161.65 per month with effect from 1 April 2023.
2. No response was received from the Respondent and on 15 June 2023 the Tribunal received an application for the determination of a pitch fee increase.
3. The Tribunal noted that no written agreement had been provided. However, when submitting the application, the Applicant supplied a previous Tribunal decision dated 7 February 2023 relating to this pitch. When determining the previous application, the Tribunal accepted the review date of 1 April based on a witness statement submitted by the Applicant and there having been no representations received from the Respondent regarding this point. The Tribunal therefore accepted the review date in the absence of a written agreement.
4. On 12 January 2024, the Tribunal made Directions which invited the Respondent to indicate whether she objected to the application and whether she required the Tribunal to hold an oral hearing. No response was received.
5. On 16 February 2024 in accordance with Directions, the Applicant submitted a hearing bundle references to page numbers in which are indicated as [].
6. The bundle does not contain a statement from the Respondent and it would appear therefore that Mrs Knight has taken no part in the proceedings.
7. Neither party requested the Tribunal to inspect the site and this determination is therefore made on the bundle received the Tribunal having satisfied itself that the issues could be determined fairly and justly.

The Law

8. The relevant law is set out in the Mobile Homes Act 1983 (“the Act”), as annexed to this decision.
9. Under the Act, terms are implied into all agreements to which the Act applies. Those implied terms are set out in Chapter 2 of Part 1 of Schedule 1 of the Act.
10. The relevant terms for the purposes of a pitch fee review are set out at paragraphs 16-20 of that part of the Schedule. A review of a pitch fee is governed by three statutory principles:

- i. The pitch fee can only be changed either with the agreement of the occupier or by determination by the Tribunal;
 - ii. The pitch fee shall be reviewed annually as at the review date;
 - iii. A presumption that the fee will increase or decrease in line with the variation in the Retail Price Index (“RPI”).
11. Paragraph 18 requires the Tribunal, in determining the new pitch fee, to have regard to particular factors:
 - i. Any sums expended by the site owner since the last review date on improvements;
 - ii. Any deterioration in the condition and any decrease in the amenity of the site;
 - iii. Any reduction in the services provided by the site owner and any deterioration in the quality of those services;
 - iv. Any legislative changes affecting costs.

Discussion and Determination

The Applicant

12. In a written statement dated 4 August 2024 the Applicant states that;
13. The Applicant acquired Glenholt Park in January 2020 and at the time of the notice there were 269 pitches 260 of which were occupied.
14. On 20 February 2023, the Applicant issued a Notice of Pitch Fee Review on all occupiers of Glenholt Park proposing an increase in pitch fee of 13.4% being the increase in RPI over the previous 12 months.
15. In a witness statement dated 19 January 2024 [48] Mr Drew said that a discount had been offered for payment by either single payment or direct debit and provided a schedule of expenditure for maintenance for 2021 and 2022.
16. In a further witness statement dated 14 February 2024 [59] Mr Drew repeated previous statements and confirmed that no further correspondence had been received from the Respondent.

The Respondent

17. No submissions have been received.

The Tribunal’s determination

18. The Tribunal has reviewed the contents of the hearing bundle and is satisfied that the Applicant was entitled to serve the Respondent with a notice of increase and that valid documentation has been served within the correct timescale.
19. The Tribunal is satisfied that the RPI increase, calculated as at January 2023, was 13.4%.
20. No grounds challenging the increase were received from the Respondent and no evidence of any other factors relevant to a pitch fee review have been advanced.
21. The Tribunal determines that the proposed increase in pitch fee is calculated in accordance with the Act.
22. The Tribunal determines that the Respondent is required to pay a pitch fee of £161.65 per month, with effect from 1 April 2023 until further review.

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

Annex: The Law

Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983

The pitch fee

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The pitch fee can only be changed in accordance with paragraph 17, either—

- (a) with the agreement of the occupier, or
- (b) if the appropriate judicial body, on the application of the owner or the occupier, considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee.

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(1) The pitch fee shall be reviewed annually as at the review date.

(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.

(2A) In the case of a protected site in England, a notice under sub-paragraph (2) which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 25A.

(3) If the occupier agrees to the proposed new pitch fee, it shall be payable as from the review date.

(4) If the occupier does not agree to the proposed new pitch fee—

(a) the owner or (in the case of a protected site in England) the occupier may apply to the appropriate judicial body for an order under paragraph 16(b) determining the amount of the new pitch fee;

(b) the occupier shall continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by the appropriate judicial body under paragraph 16(b); and

(c) the new pitch fee shall be payable as from the review date but the occupier shall not be treated as being in arrears until the 28th day after the date on which the new pitch fee is agreed or, as the case may be, the 28th day after the date of the appropriate judicial body's order determining the amount of the new pitch fee.

(5) An application under sub-paragraph (4)(a) may be made at any time after the end of the period of 28 days beginning with the review date but, in the case of an application in relation to a protected site in England, no later than three months after the review date.

(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, but

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

(6A) In the case of a protected site in England, a notice under sub-paragraph (6)(b) which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 25A.

(7) If (at any time) the occupier agrees to the proposed pitch fee, it shall be payable as from the 28th day after the date on which the owner serves the notice under sub paragraph (6)(b).

(8) If the occupier has not agreed to the proposed pitch fee—

(a) the owner or (in the case of a protected site in England) the occupier may apply to the appropriate judicial body for an order under paragraph 16(b) determining the amount of the new pitch fee;

(b) the occupier shall continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by the appropriate judicial body under paragraph 16(b); and

(c) if the appropriate judicial body makes such an order, the new pitch fee shall be payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (6)(b).

(9) An application under sub-paragraph (8) may be made at any time after the end of the period of 56 days beginning with date on which the owner serves the notice under sub-paragraph (6)(b) but, in the case of an application in relation to a protected site in England, no later than four months after the date on which the owner serves that notice.

(9A) A tribunal may permit an application under sub-paragraph (4)(a) or (8)(a) in relation to a protected site in England to be made to it outside the time limit specified in sub-paragraph (5) (in the case of an application under sub-paragraph (4)(a)) or in sub-paragraph (9) (in the case of an application under sub-paragraph (8)(a)) if it is satisfied that, in all the circumstances, there are good reasons for the failure to apply within the applicable time limit and for any delay since then in applying for permission to make the application out of time

(10) The occupier shall not be treated as being in arrears—

(a) where sub-paragraph (7) applies, until the 28th day after the date on which the

new pitch fee is agreed; or

(b) where sub-paragraph (8)(b) applies, until the 28th day after the date on which

the new pitch fee is agreed or, as the case may be, the 28th day after the date of the

appropriate judicial body's order determining the amount of the new pitch fee.

(11) Sub-paragraph (12) applies if a tribunal, on the application of the occupier of a pitch in England, is satisfied that—

(a) a notice under sub-paragraph (2) or (6)(b) was of no effect as a result of sub-paragraph (2A) or (6A), but

(b) the occupier nonetheless paid the owner the pitch fee proposed in the notice.

(12) The tribunal may order the owner to pay the occupier, within the period of 21 days beginning with the date of the order, the difference between—

(a) the amount which the occupier was required to pay the owner for the period in question, and

(b) the amount which the occupier has paid the owner for that period.

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(1) When determining the amount of the new pitch fee particular regard shall be had to—

(a) any sums expended by the owner since the last review date on improvements—

(i) which are for the benefit of the occupiers of mobile homes on the protected site;

(ii) which were the subject of consultation in accordance with paragraph 22(e) and

(f) below; and

(iii) to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the appropriate judicial body on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;

(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 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 sub-paragraph);

(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, 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 sub-paragraph);

(ba) in the case of a protected site in England, any direct effect on the costs payable by the owner in relation to the maintenance or management of the site of an enactment which has come into force since the last review date;

(1A) But, in the case of a pitch in England, no regard shall be had, when determining the amount of the new pitch fee, to any costs incurred by the owner since the last review date for the purpose of compliance with the amendments made to this Act by the Mobile Homes Act 2013.

(2) When calculating what constitutes a majority of the occupiers for the purposes of sub-paragraph (1)(b)(iii) each mobile home is to be taken to have only one occupier and, in the event of there being more than one occupier of a mobile home, its occupier is to be taken to be the occupier whose name first appears on the agreement.

(3) In a case where the pitch fee has not been previously reviewed, references in this paragraph to the last review date are to be read as references to the date when the agreement commenced.

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(1) When determining the amount of the new pitch fee, any costs incurred by the owner in connection with expanding the protected site shall not be taken into account.

(2) In the case of a protected site in England, when determining the amount of the new pitch fee, no regard may be had to any costs incurred by the owner in relation to the conduct of proceedings under this Act or the agreement.

(3) In the case of a protected site in England, when determining the amount of the new pitch fee, no regard may be had to any fee required to be paid by the owner by virtue of—

(a) section 8(1B) of the Caravan Sites and Control of Development Act 1960 (fee for application for site licence conditions to be altered);

(b) section 10(1A) of that Act (fee for application for consent to transfer site licence).

(4) In the case of a protected site in England, when determining the amount of the new pitch fee, no regard may be had to any costs incurred by the owner in connection with—

(a) any action taken by a local authority under sections 9A to 9I of the Caravan Sites and Control of Development Act 1960 (breach of licence condition, emergency

(b) the owner being convicted of an offence under section 9B of that Act (failure to comply with compliance notice).

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(A1) In the case of a protected site in England, 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 prices 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 (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).

(2) Paragraph 18(3) above applies for the purposes of this paragraph as it applies for the purposes of paragraph 18.

25A

(1) The document referred to in paragraph 17(2A) and (6A) must—

(a) be in such form as the Secretary of State may by regulations prescribe,

(b) specify any percentage increase or decrease in the retail prices index calculated in accordance with paragraph 20(A1),

(c) explain the effect of paragraph 17,

(d) specify the matters to which the amount proposed for the new pitch fee is attributable,

(e) refer to the occupier’s obligations in paragraph 21(c) to (e) and the owner’s obligations in paragraph 22(c) and (d), and

(f) refer to the owner’s obligations in paragraph 22(e) and (f) (as glossed by paragraphs 24 and 25).

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“pitch fee” means 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 and sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts;

The Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations 2013

Application, citation and commencement

1. These Regulations, which apply in relation to England only, may be cited as the Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations 2013 and come into force on 26th July 2013.

Pitch fees: Prescribed form

2. The document referred to in paragraph 17(2A) and (6A) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 shall be in the form prescribed in the Schedule to these Regulations or in a form substantially to the like effect.