

FIRST TIER PROPERTY CHAMBER DECISION



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

Case Reference : **CHI/18UH/PHI/2023/0529 –
0533 and 0535 - 0545**

Property : **Pitch numbers 1-5 and 7-18,
Haldon Ridge, Kennford,
Exeter, EX6 7XA**

Applicant : **Teinbridge District Council**

Representative : **Cobb Warren Solicitors**

Respondents : **The Occupiers of the
properties listed below**

Type of Application : **Application for
determination of Pitch Fees:
Mobile Homes Act 1983 (as
amended)**

Tribunal: : **Judge T. Hingston.**

Date of Decision : **6th May 2024**

DECISION

<u>Case reference</u>	<u>Property</u>
<u>CHI/18UH/PHI/2023/0529</u>	<u>1 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0530</u>	<u>2 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0531</u>	<u>3 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0532</u>	<u>4 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0533</u>	<u>5 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0535</u>	<u>7 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0536</u>	<u>8 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0537</u>	<u>9 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0538</u>	<u>10 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0539</u>	<u>11 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0540</u>	<u>12 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0541</u>	<u>13 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0542</u>	<u>14 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0543</u>	<u>15 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0544</u>	<u>16 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0545</u>	<u>17 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>
<u>CHI/18UH/PHI/2023/0546</u>	<u>18 Haldon Ridge, Kennford, Exeter, EX6 7XA</u>

DECISION

The Tribunal determines that in the absence of any objection from the Respondents the statutory presumption applies, and a pitch fee increase of 13.4% in line with the Retail Price Index is approved.

The new fees shall be as per the table shown below, with effect from 3rd April 2023.

BACKGROUND

- 1.** An application has been made for the determination of a pitch fee increase for each of the properties listed above. The Applicants say that they have served a Pitch Fee Notice upon each of the Respondents, and they propose an increase in line with the RPI as published in December 2022.
- 2.** The applications were made in hard copy to the Tribunal and received on 25 May 2023, along with copies of all the written agreements and pitch fee notices for each Respondent.
- 3.** No objection or correspondence has been received from the Respondents.
- 4.** The existing pitch fees at Haldon Ridge vary according to date of acquisition and size of pitch.
- 5.** No hearing or inspection was requested by any party, and therefore the matter was dealt with as a paper determination.

RELEVANT LAW.

6. This is an application for determination as to whether the proposed *increase* in pitch fees is reasonable. Consideration of the *level* of pitch fee is outside the jurisdiction of the Tribunal, and the Tribunal has no power to determine whether the overall level of pitch fee is reasonable.

7. Much of the relevant law is contained in the Mobile Homes Act 1983 (as amended) (as above), and in Schedule 1 Part 1 Chapter 2 of the said Act, which sets out the ‘Terms implied by the Act’.

8. Section 1(1) of the Act provides:

‘This Act applies to any agreement under which a person (“the occupier”) is entitled
a) *To station a mobile home on land forming part of a protected site, and*
b) *To occupy the mobile home as his only or main residence.*

9. Paragraph 29 of the Schedule 1 Part 1 Chapter 2 defines the ‘pitch fee’ as follows: -

“...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”.

10. 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”.

11. Paragraph 17 provides for annual review of the pitch fee.

12. Paragraph 18(1)(a) states that : -

“When determining the amount of the new pitch fee particular regard shall be had to... in the case of a protected site in England, any deterioration in the condition, and any decrease in 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 deteriorate or decrease for the purposes of this subparagraph)”.

13. Paragraph 18(1)(ab) states that in the case of a protected site in England, the Tribunal must consider whether there has been 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 (i.e. 26 May 2013), in so far as regard has not previously been had to that reduction or deterioration for the purposes of that subparagraph.

14. Paragraph 20(A1) of the statutory implied terms (as amended) states: -
“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 (RPI) 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”.

(**Note:** Although this paragraph was amended on 2 July 2023 by the Mobile Homes (Pitch Fees) Act 2023 to change the basis of pitch fee increases in England from RPI to CPI, the legislation is not retrospective.)

15. The effect of the statutory presumption is that once the Tribunal is satisfied that an Applicant has properly complied with the requirements for a pitch fee review, the burden of proof falls on the Respondent(s) to persuade the Tribunal that it should depart from the statutory presumption when determining the new pitch fee for the year in question.

16. In the case of *Vyse -v- Wyldecrest Parks (Management) Limited 2017 [UKUT] 24*, the Upper Tribunal held that if none of the matters raised in paragraph 18(1) of the statutory implied terms applies and would justify departing from the statutory presumption, then the statutory presumption arises and the Tribunal must consider whether any “other factor” should displace it. The Upper Tribunal held that : -
“...by definition, this must be a factor to which considerable weight attaches...”

17. 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.

FINDINGS AND CONCLUSION.

18. The Tribunal finds that some increase in pitch fees is justified and reasonable. In the absence of any objections or submissions from the Respondents, the statutory presumption in Paragraph 20 of the Act (as set out in **14.** above) applies and the increase should be no more than the corresponding RPI increase, as at December 2022.

19. The Tribunal therefore confirms the proposed increase of 13.4% in respect of all pitches except Pitch 7, where the proposed increase is only 0.8% because of the recent acquisition of the pitch (on 23rd September 2022.)

20. The resultant pitch fees so determined are set out in the table below.

Resident	Address	Current Pitch fee	RPI %	Amount of Increase	Proposed new Pitch Fee	Tribunal determination w.e.f. 03.04.23
Natalie Sweet	1 Haldon Ridge	£71.75	13.4%	£1.65	£ 73.40	£73.40
Demelza Annison	2 Haldon Ridge	£71.75	"	£9.61	£81.36	£81.36
Chris McKinley	3 Haldon Ridge	£61.50	"	£8.24	£69.74	£69.74
Ross Broadhead	4 Haldon Ridge	£61.50	"	£8.24	£69.74	£69.74
Kieran Blockley	5 Haldon Ridge	£61.50	"	£8.24	£69.74	£69.74
Mary Soloman	7 Haldon Ridge	£66.30	0.8%	£0.53	£66.83	£66.83
Adam Thomson	8 Haldon Ridge	£61.50	"	£8.24	£69.74	£69.74
Megan Thomson	9 Haldon Ridge	£61.50	"	£8.24	£69.74	£69.74
Gill Rowson	10 Haldon Ridge	£61.50	"	£8.24	£69.74	£69.74
Emily Barratt	11 Haldon Ridge	£82.00	"	£1.39	£83.39	£83.39
Bonnie Beasley	12 Haldon Ridge	£61.50	"	£8.24	£69.74	£69.74
Tim Wilson	13 Haldon Ridge	£61.50	"	£8.24	£69.74	£69.74
Becci Daniels	14 Haldon Ridge	£61.50	"	£8.24	£69.74	£69.74
Daniel Bacon	15 Haldon Ridge	£61.50	"	£8.24	£69.74	£69.74
Poppy Dunlop	16 Haldon Ridge	£82.00	"	£10.98	£92.98	£92.98
Yasmine Barratt	17 Haldon Ridge	£82.00	"	£10.98	£92.98	£92.98
Tracey Cuthbert	18 Haldon Ridge	£82.00	"	£10.98	£92.98	£92.98

May 2024

Right to Appeal

1. A person wishing to appeal this decision to the Upper Chamber must seek permission to do so by making written application 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. Where possible you should send your further application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal to deal with it more efficiently.
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.