



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

Case reference : **BIR/37UG/PHI/2023/00160 & 161**

Properties : **2 & 16A Riverdale Country Park,
Gunthorpe, Nottinghamshire NG14 7RP**

Applicant : **Riverdale Country Park Ltd**

Representative : **None**

Respondents : **Miss Christine Castles (1)
Mr Manning (2)**

Representative : **None**

Type of application : **Application by site owner for
determination of new level of pitch fee**

Tribunal member : **Judge C Goodall**

**Date and place of
hearing** : **Paper determination**

Date of decision : **29 May 2024**

DECISION

Background

1. This is an application by Riverdale Country Park Ltd (“the Applicant”) for determination of a new pitch fee for pitches occupied at Riverdale Country Park in Gunthorpe, Nottinghamshire.
2. The application concerns pitches 2 and 16A. Miss Castles occupies pitch 2 and Mr Manning occupies pitch 16A.
3. By a Notice dated 24 February 2024, the Applicant served Miss Castles with a Pitch Fee Review Form in the form prescribed by the Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations 2013 (“the Regulations”) under which a new pitch fee was proposed of £183.58. The form stated that the last review date was 1 April 2022, the current pitch fee was £161.89, and the inflation index applied to increase the pitch fee was the RPI Index increase published for January 2023 of 13.4%.
4. By a Notice also dated 24 February 2024, the Applicant served Mr Manning with a Pitch Fee Review Form also in the form prescribed by the Regulations under which a new pitch fee was proposed of £188.54. The current pitch fee was £166.26, and the same information about the last review date, and the applicable inflation index as was given on Miss Castles Notice was also given.
5. The application form is dated 30 June 2023. By Directions dated 22 January 2024, the applications were consolidated and ordered to be heard together. The application form and supporting documents were ordered to stand as the Applicants case. Any Respondent who did not agree to the proposed new pitch fee was directed to provide a statement setting out their reasons for objecting to the proposed pitch fee increase by 19 February 2024. The Respondents were warned that any Respondent who failed to comply with the Directions may be deemed to have agreed to the proposed pitch fee.
6. No statements from the Respondents have been received by the Tribunal.
7. This is the Tribunal’s determination of the application.

Law

8. The Mobile Homes Act 1983 (as amended) (“the Act”) provides in section 2(1) that terms are implied into every agreement for the renting of a pitch on a protected site, being the terms as set out in Part 1 of Schedule 1 of that Act.
9. Paragraphs 16 to 20 and paragraph 25A of Part 1 of Schedule 1 to the Act provide a regime that governs pitch fee increases. The wording of those paragraphs is set out in the Appendix to this decision.
10. The key components of that regime, as they apply to this case are:

- a. The pitch fee can only be increased once a year;
 - b. A site owner initiates a pitch fee increase by serving a notice that must be in a specific form, giving details (amongst other things) of the pitch to which the increase relates, the current pitch fee and the proposed new pitch fee, showing how it has been calculated;
 - c. If the pitch occupiers do not agree to the proposed increase, it does not take effect unless the site owner applies to this tribunal to determine the new pitch fee;
 - d. The tribunal must agree that it is reasonable for the pitch fee to be changed, and must determine the amount of the new pitch fee;
 - e. There is a presumption that, unless it would be unreasonable, the new pitch fee shall increase by the increase in the retail prices index published by the Government. For pitch fee increases proposed after 2 July 2023, the consumer prices index must be used instead.
 - f. There are factors to which a tribunal must have particular regard when determining a new pitch fee, which are contained in paragraph 18 of the implied terms. Paragraph 19 contains a list of matters which should not be taken into account. The most significant factors mentioned which might be applicable to this case in the light of the Respondents arguments are:
 - i. Deterioration in the condition of the site;
 - ii. Reduction in the services provided or a reduction in their quality;
11. The Tribunal is not restricted to consideration only of the matters to which it must have “particular regard” under implied terms paragraph 18. It is possible for another factor to apply which could displace the presumption. But any such ‘other factor’ has to be one to which considerable weight should attach. A factor that is of equal weight to the presumption would not be adequate. Reasonableness has to be determined in the context of the statutory provisions relating to pitch fee increases.
12. But the starting point for any pitch fee review is the presumption in favour of an annual increase by RPI (or CPI from 2 July 2023). An inflation increase will therefore normally be justified, unless displaced by a paragraph 18 factor, or there is some other important factor that affects the reasonableness of the proposed increase (see *Britaniacrest Ltd v Bamborough* [2016] UKUT 0144 (LC), *Vyse v Wyldecrest Parks (Management) Limited* [2017] UKUT 0024 (LC), *Wyldecrest Parks (Management) Limited v Kenyon* [2017] UKUT 0028 (LC), and *Wickland (Holdings) Limited v Esterhuyse* [2023] UKUT 147 (LC).

Discussion

13. The Respondents will see from paragraphs 10f and 11 above that unless a Respondent can demonstrate that it would be unreasonable to increase the pitch fee, by offering reasons that fall within those paragraphs, there is a presumption that an increase to the pitch fee based upon the retail prices index increase for the month before the review date is to be allowed.
14. I am satisfied that the correct RPI index has been selected by the Applicant and that there are no other apparent deficiencies in their documentation.
15. Accordingly, I direct that the pitch fee for Pitch 2 is increased to £183.58 as from 1 April 2023, the review date.
16. I further direct that the pitch fee for pitch 16A is increased to £188.54 also from 1 April 2023.

Appeal

17. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
First-tier Tribunal (Property Chamber)

APPENDIX

Paragraphs 16 – 20 and paragraph 25A of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (as amended)

The pitch fee

16

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) 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 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 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) 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) [F44but F45... 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 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.

18

(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);

(b) [Wales].

(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;

(c) [Wales]

(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 purpose 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 – 9I of the Caravan Sites and Control of Development Act 1960 (breach of licence condition, emergency action etc);

(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 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).

(1) [Wales]

(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).

(2) Regulations under this paragraph must be made by statutory instrument.

(3) The first regulations to be made under this paragraph are subject to annulment in pursuance of a resolution of either House of Parliament.

(4) But regulations made under any other provision of this Act which are subject to annulment in pursuance of a resolution of either House of Parliament may also contain regulations made under this paragraph.

* From 2 July 2023, the applicable index is changed to the Consumer Prices Index by virtue of the Mobile Homes (Pitch Fees) Act 2023, for notices served on or after that date