



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

Case Reference	Property
CHI/24UL/PHI/2024/0254	14 Brookside Park
CHI/24UL/PHI/2024/0255	17 Brookside Park
CHI/24UL/PHI/2024/0256	19 Brookside Park
CHI/24UL/PHI/2024/0257	20 Brookside Park
CHI/24UL/PHI/2024/0258	24 Brookside Park
CHI/24UL/PHI/2024/0259	34 Brookside Park
CHI/24UL/PHI/2024/0260	42 Brookside Park
CHI/24UL/PHI/2024/0261	47 Brookside Park
CHI/24UL/PHI/2024/0262	66 Brookside Park

Property : Brookside Park, Hawley Lane,
Farnborough, Hampshire, GU14 9AZ

Applicant : Simon Howard

Representative :

Respondent : Occupiers of the pitches stated above

Representative :

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

Tribunal Members : Regional Judge Whitney
Regional Surveyor Clist MRICS

Date of Decision : 24 October 2024

DECISION

BACKGROUND

1. On 30 April 2024 the Tribunal received an application for each of the nine properties listed for a determination of a pitch fee increase from 1 January 2024.
2. A Pitch Fee Review Notice and Form dated 30 November 2023 was served on the occupiers. A revised Pitch Fee Review Notice was served on 14 December 2023 revising the pitch fee amount to reflect the correct CPI amount as it was stated that an incorrect figure had been used. No revised Review Form was attached, and the effective date remained as 1 January 2024.
3. On 16 May 2024 the Tribunal sent holding Directions to the Applicant for them to serve upon the Respondents which included a reply form for the Respondents to complete in advance of the case being allocated to a Tribunal Case Officer. The occupiers of numbers 14, 17, 20, 24, 34, 42 and 66 have all returned the reply form including their objections to the applications. No replies have been received from numbers 19 or 47.

Time Limits

4. Paragraph 17 (2) of Schedule 1, Chapter 2, Paragraph 29 of the Mobile Homes Act 1983 states: 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.

Paragraph 17 [2A] goes on to say: [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 (The review form).
5. Paragraph 17 (5) states: An application under sub-paragraph (4)(a) may be made at any time after the period of 28 days beginning with the review date [but . . . no later than 3 months after the review date].
6. Notice of increase was served on the Respondents on 30 November 2023 and later revised on 14 December 2023. The revised notice did not give the Respondent 28 clear days' notice and was not accompanied by the review form.
7. The time limit for applying to the Tribunal was 1 April 2024. The applications were dated 22 April 2024 and received by the Tribunal on 30 April 2024 so are technically out of time.
8. Paragraph 17 [(9A) states: A tribunal may permit an application to be made to it outside the time limit specified in sub-paragraph (5) . . . 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 an application out of time].

9. The Tribunal directed on 19th September 2024 that as a preliminary issue it should consider why the applications were made late and whether to allow the applications to be made out of time. Directions for submissions were given and a remote hearing was fixed for 24th October 2024.
10. On 21st October 2024 Mr Howard had sought a postponement on the grounds of:

“Due to a very serious, unforeseen personal / family matter (exact reason is a highly sensitive subject matter I would prefer for the Respondents not to be privy to), I shall unfortunately no longer be available this week, however I will be available from Thursday 31st October.”
11. On 22nd October 2024 the Tribunal requested further explanation from Mr Howard and confirmed such information may be provided to the Tribunal only. The Tribunal requested such information by 12 noon on 23rd October 2024 and stated the application would then be considered.
12. No response was received from Mr Howard.

Preliminary Hearing

13. The following people attended the preliminary hearing:
 - Ms Sharon Spence Pitch 14 by video
 - Patricia Hayward Pitch 66 by video
 - Julie Udal Pitch 34 by video
 - Colin Haggett Pitch 24 by video
 - Elaine Cairncross Pitch 20 by telephone
 - Lisa Rose Pitch 17 by telephone
14. There was no attendance by Mr Howard or any party representing him.
15. The hearing was recorded.
16. The Tribunal reminded the parties present the matters it would be considering were firstly whether it should proceed with the hearing in the absence of Mr Howard and secondly whether it should grant an extension of time for the filing of the original application. The Tribunal reminded all parties that Mr Howard had provided a letter dated 23rd September 2024 explaining why he delayed in making the application.
17. All present had emailed in replying to the case management application seeking an adjournment. All objected in their emails save Ms Hayward

who expressly did not object and Mr Haggett who said he would leave the decision to the Tribunal.

18. Each party was given an opportunity to respond. All present indicated they felt that Mr Howard had time to deal with the application and wanted a decision made. Ms Hayward explained she had not objected as she did not work so would not have been inconvenienced by an adjournment but now she wanted a decision given all had attended. Mr Haggett whilst he had been neutral believes Mr Howard had had enough time and had not replied to the Tribunal or turned up this morning.
19. All believed that Mr Howard had ample time to apply to the Tribunal. A number of residents queried the fact that in January Mr Howard had written to residents suggesting they were in arrears for not paying the increase which was incorrect. As to the meeting Mr Howard refers to as having taken place at the local authority on 22nd March 2024 this was with the Residents Association who did not speak for all of those present at the hearing. Those present referred to the pitch fee and agreement as to the same being a matter for individual residents.
20. Those in attendance confirmed that they believe the site does have 69 homes although not all are occupied. Further they believe Mr Howard has 2 or 3 other sites. It was suggested that Mr Howard routinely does not follow due process or gets it wrong or late as evidenced by his failure initially with the Pitch Fee Review Notice to include the correct CPI figure. They suggested this was typical of his behaviour.

Decision

21. We did consider firstly Mr Howard's application to adjourn.
22. It is clear Mr Howard was aware of the hearing and so nothing turns on that point. It is for us to consider whether or not we should grant the Applicant's application to adjourn and if not whether we should proceed in his absence.
23. In respect of the application, we note that no real information was given as to why Mr Howard or a representative could not attend. The application contained little information to enable the Tribunal to consider the merits of the same given it was received shortly prior to the hearing on the Monday prior to the hearing on the Thursday. Most Respondent's objected to the adjournment.
24. The Tribunal had requested further explanation. It had directed this could be provided to the Tribunal only. Despite this nothing was received.

25. We considered whether or not it was in the interests of justice to proceed in the absence of Mr Howard. We note we did have his submission as to why he was late in making the application.
26. We are satisfied that it is in the interests of justice taking account of the overriding objective and the needs of all parties including the Respondents and the Tribunal that we should proceed and determine the preliminary issue.
27. We next turn to the preliminary issue.
28. It appears that Mr Howard has been the site owner for some time. We so find having regard to the documents filed with the applications showing Mr Howard or Farnborough Caravan Sites Limited have been the owner of the site since at least 2006. We are satisfied therefore that he knows or ought to know what the time limits are for applying to the Tribunal.
29. We find that nothing in his letter dated 23rd September 2024 suggests he was not aware of the need to make an application to the Tribunal within 3 months of the pitch fee review date. The date in the notices was 1st January 2024 and so an application should have been made by the end of March 2024.
30. Taking Mr Howard's evidence in his letter of 23rd September 2024 at its highest he knew by 22nd March 2024 that all attempts to reach agreement with the home owners as to the pitch fee had failed. He says this at paragraphs g and h:
- “g. On Friday 22nd March 2024, a face-to-face meeting was held at Rushmoor Borough Council, called by the Applicant / Site Owner, Mr Simon Howard, along with the Residents Association Committee Members. This was overseen by the Council's Head Licensing Officer Ms. Shelly Bowman. The purpose of the meeting was to understand the thoughts and frustrations of the Committee Members and one of the topics up for discussion was to understand their reasons why they were choosing to refrain from paying the increased CPI monthly Pitch Fee and share any potential frustrations they had or deemed as reason to not pay, to no avail.*
- h. Following the unsuccessful outcome of this meeting and the committee members unwillingness to engage in conversation, this is what resulted in pursuing this through the First Teir Tribunal, however subsequently meant very little time was remaining to submit these applications, hence the late application that was regrettably made.”*
31. Whilst stating there was only a short period of time no explanation is given as to why applications were not prepared until 22nd April 2024 (the date on each) and then not received by the Tribunal until 30th April 2024. Between the meeting and the correct deadline for making the application there was a clear working week. It then appears to have taken Mr Howard

another 3 weeks to have prepared the applications and another week before they were received. No explanation is given for this period.

32. Mr Howard is plainly a longstanding park home owner and we find we are entitled to assume from what he says that he knows the process. He refers to trying to avoid the need for Tribunal proceedings and we have had sight of letters he sent to residents including to Ms Spence on 10th January 2024. In this letter he does refer to arrears which is of course incorrect as until agreed or determined by the Tribunal the pitch fee has not been determined.
33. On balance we are not satisfied that Mr Howard has identified a good reason as to why the time for lodging the application should be extended. Whilst it may be said that a period of one month delay is relatively short the nature of annual pitch fee increases is that parties do need certainty and hence time periods are relatively modest. We are not satisfied that any good reason for delay has been identified even taking the explanation offered at its highest.
34. We find the application was not made in time and we have no jurisdiction to determine the pitch fees. This means the pitch fee review notices are of no effect and Mr Howard is not entitled to the increase claimed.

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
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.