



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

Case reference	:	CHI/00HC/PHI/2024/0059
Property	:	2 Downside Park, Hyatts Wood Road, Backwell, Bristol, BS48 3EE
Applicant	:	Donaldson & Newman Ltd
Representative	:	N/A
Respondents	:	Kevin Harris
Representative	:	N/A
Type of Application	:	Review of Pitch Fee: Mobile Homes Act 1983 (as amended)
Tribunal Members	:	Judge R Cooper
Date of Decision	:	13 th November 2024

CORRECTED DECISION

The application for determination of the pitch fee for Mr Harris' occupation of 2 Downside Park, Hyatts Wood Road, Backwell, Bristol, BS48 3EE with effect from 1/01/2024 is refused.

(References in this decision to the PDF page numbers in the appeal bundle appear as '[]')

Background to the application

1. On 28/03/2024 the Tribunal received an application from Donaldson & Newman Ltd ('the Applicant') for a determination of a new pitch fee for 2

Downside Park, Hyatts Wood Road, Backwell, Bristol, BS48 3EE which they say is the park home occupied by Mr K Harris ('the Respondent').

2. The Applicant is seeking an increase of the pitch fee for the Property from 1/01/2024, details of which are set out below.
3. On 17/05/2024 [44] interim directions (instructions) were given to the Applicant to send a copy of the application to Mr Harris. Mr Harris was instructed to send a response to the Applicant and the Tribunal within 4 weeks confirming whether he disagreed with the increase. If he did, he was told to explain why and send any relevant documents. No response was received by the Tribunal.
4. On 17/09/2024 further directions were issued by the Tribunal. Mr Harris was instructed to send notice of any objection to the application to the Applicant by 1/10/2024 and any documents he considered relevant. The Applicant was instructed to send a digital bundle containing all relevant documents relied on by the parties together with some specific documents [52]. The Tribunal confirmed the application appeared suitable for a decision on the papers without a hearing, and that there was no need for an inspection. Both the Applicant and Mr Harris were told to notify the Tribunal by 15/10/2024 if they considered an inspection or an oral hearing was needed. No response has been received by Mr Harris, and neither party requested an inspection or oral hearing.
5. The Tribunal is satisfied that it is able to make a fair decision without an inspection or a hearing of the appeal, and it is in the interests of justice to do so.

The Documents

6. The Tribunal considered the documents provided by the Applicant in a bundle of 56 pages.

The law

7. The relevant legal provisions governing the review of pitch fees are contained in paragraphs 16 to 20 and 25A of Chapter 2 to Schedule 1 to the Mobile Homes Act 1983 ('the 1983 Act') and the Mobile Homes (Pitch Review) (Prescribed Form) (England) Regulations 2023. In this decision all references to 'paragraphs' are the relevant paragraphs of Chapter 2 to Schedule 1 of the 1983 Act. Copies of the relevant provisions are set out in the Appendix to this decision.

Discussion and conclusions

8. Downside Park is a protected site within the meaning of the Mobile Homes

Act 1983 (as amended) (the 1983 Act). Evidence has been produced of the licence granted on 29/04/2016 by North Somerset District Council [21].

9. The Applicant says Mr Harris' right to station his mobile home on pitch 2 Downside Park is governed by the terms of a Written Agreement under the provisions of the 1983 Act. A copy of an agreement dated 27/09/1986 between the Bristol Caravan Company and Mr and Mrs Penhall has been provided [28]. The review date provided for in the written agreement is given as 1st January each year [28].
10. However, whilst there is evidence of an assignment of the mobile home from Mr and Mrs Penhall to a Mr Starzec on 8/09/1990 [41], no evidence has been provided to the Tribunal showing that there has been any assignment to Mr Harris. Nor is there any other documentation showing that he occupies a mobile home on pitch 2 Downside Park. There is no evidence showing a change of name or any assignment of the mobile home from Mr Starzec to Mr Harris. The only documents the Applicants rely on are a letter and notice sent to Mr Harris.
11. The Applicant has produced a copy of a 'Pitch Fee Review Notice' and a 'Pitch Fee Review Form' both dated 23/11/2023 ([12] and [13] respectively). Mr Newman, in a brief witness statement which does not include a statement of truth, says that the documents were posted to Mr Harris on 24/11/2023 and were also sent to him by email on 28/11/2023 [56]. There is an email to Mr Harris dated 28/11/2023 [20] which refers to the attached pitch fee review documents.
12. The Pitch Fee Review Notice provides for an increase of the pitch fee to £168.28 per month based on the Consumer Prices Index (CPI) increase of 4.6% [12]. The Tribunal is satisfied that the accompanying form is a Pitch Fee Review Form which the Tribunal is satisfied is in the form prescribed by paragraph 25A and complies with Schedule 1 of the Mobile Homes (Pitch Review) (Prescribed Form) (England) Regulations 2023 which came into force on 2/07/2023.
13. The Review Form [13] contains contradictory information. It states in Section 2 that the current pitch fee is £161.92, but in Section 4 says the current rent is £160.87. The form explains that the increase to £168.28 is based on an increase in line with the Consumer Prices Index (CPI) published in October 2023 of 4.6% and would take effect on 1/01/2024 [13]. The Tribunal finds that an increase of 4.6% on £160.87 would be £168.27 and an increase of 4.6% on £161.92 would be £169.37. In his witness statement Mr Newman confirms there was a rounding error in his calculation and the revised pitch should have been £168.27 not **£168.28** ~~£126.28~~.
14. The Upper Tribunal has confirmed in a number of decisions (most recently *Martin Hampton v The Berkley Leisure Group Ltd* [2024] UKUT 260 (LC))

that minor errors in the prescribed notice or calculations does not invalidate it. The Tribunal, therefore, accepts that the current **pitch fee** ~~rent~~ figure of £161.92 was a typographical error, and should have read £160.87. It also accepts that the Applicant's revised pitch fee was wrongly calculated and the correct figure for the revised pitch fee should be £168.27 based on a 4.6% increase.

15. The Tribunal is satisfied the Pitch Fee Review Notice and Form were served more than 28 days before the proposed increase would take effect (on 1/01/2024). It is also satisfied the proposed increase was to be on the Review Date provided for in the written agreement.
16. The Applicant has produced evidence that the CPI for October 2023 was £4.6% [53]. Publicly available information published online by the ONS shows the October figure was published on 15/11/2023, and was the most recent figure before the notice of increase was served.
17. The Tribunal is satisfied that the Applicant has provided evidence demonstrating the procedural requirements of paragraph 17 of Chapter 2 to Schedule 1 of the 1983 Act have been complied with to support an application for an increase in a pitch fee from 1/01/2024. It is also satisfied the errors in the prescribed notice are not fatal.
18. However, the Tribunal finds that the Applicant has not satisfactorily demonstrated with evidence that Mr Kevin Harris is the occupier of 2 Downside Park and that he is liable to pay the pitch fee. The Tribunal notes that there appears to have been no response from Mr Harris either to the notices served by the Applicant or the directions of the Tribunal. Any determination of the Tribunal would create a liability for Mr Harris to pay £168.27 per **calendar month** ~~week~~ to the Applicant. This would potentially have consequences for Mr Harris if he were to fail to do so. In all the circumstances, the Tribunal was satisfied that it was fair and proportionate to refuse the application in respect of the increase from 1/01/2024.

Decision

19. The Tribunal refuses the Applicant's application for an increase in the pitch fee for 2 ~~Downland~~ **Downside** Park.
20. Although an application was made by the Applicant for the fee of £20 to be paid by the Respondent, as the application has been refused this request is refused.

Judge R Cooper

Date 13/11/2024

Corrected on 4/12/2024 pursuant to rule 50 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, because the

original contained typographical errors.

Note: Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office that 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. The application must be sent by email to rpsouthern@justice.gov.uk and should include the case number and address of the property to which it relates.
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.

APPENDIX

The following are relevant excerpts from the legislation referred to in this decision

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.

17.

- (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 subparagraph (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]³ 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 subparagraph (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 subparagraph (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 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;

(iii) 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 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, 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);

(b)

(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; and

(c)...

(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 subparagraph (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.

19.

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

20.—

(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).