



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : CHI/43UK/PHI/2024/0056

Property : 6A Court Farm Park, Tithe Pit Shaw Lane,
Croydon, CR6 9YA

Applicant : The Berkeley Leisure Group Ltd

Representative :

Respondent : Ruth Dziadek

Representative :

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

Tribunal Members : Regional Judge Whitney
Mr E Shaylor MCIEH
Mr A Crawford MRICS ACI Arb

Date of Decision : 30 January 2025

DECISION

BACKGROUND

1. On 22 March 2024 the Tribunal received an application for the determination of a pitch fee increase to £264.72 per month payable by the Respondent from 1 January 2024.
2. A Pitch Fee Review Notice dated 17 November 2023 was served on the occupier proposing to increase the pitch fee by an amount which the site owner says represents only an adjustment in line with the Consumer Prices Index.
3. The application was struck out on 25 September 2024 for non-payment of the application fee and following a case management application by the Applicant was re-instated on 28 October 2024.
4. The Tribunal notes the comments of the Respondent in her email dated 24 October 2024 to the Applicant, which the Tribunal also considers to be an objection to the pitch fee.
5. The Tribunal being mindful of the Tribunal's overriding objective, decided that a hearing is necessary. Directions were issued for the same.
6. The Applicants supplied a hearing bundle consisting of 61 pdf pages. References in [] are to pages within that bundle. Although not in accordance with the Directions the Respondent produced a witness statement dated 13th December 2024 and made an application to rely upon the same.

The Law

7. The relevant law is set out in the Mobile Homes Act 1983 (as amended) ("the Act").
8. Section 1(1) of the Act provides as follows:
 - (1) *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. The Tribunal derives its jurisdiction to determine disputes in these matters by virtue of Section 4(1) of the Act which states as

follows:

(1) In relation to a protected site a tribunal has jurisdiction –

(a) To determine any question arising under this Act or any agreement to which it applies; and

(b) To entertain any proceedings brought under this Act or any such agreement,

Subject to subsection (2) to (6)

10. 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.

11. The relevant terms for the purposes of a pitch fee review are set out at paragraphs 16-20 of that part of the Schedule. In summary, a review of a pitch fee is governed by three statutory principles:

- The pitch fee can only be changed either with the agreement of the occupier or by determination by the Tribunal;
- The pitch fee shall be reviewed annually as at the review date;
- A presumption that the fee will increase or decrease in line with the variation in the Retail Price Index (now CPI).

12. Paragraph 16 states that a 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."

13. Paragraph 17(4)(a) states that where the occupier does not agree to the proposed new pitch fee *"the owner [or . . . the occupier] may apply to the [appropriate judicial body] for an order under paragraph 16(b) determining the amount of the new pitch fee."*

14. Paragraph 17(5) provides that *"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 . . .] no later than three months after the review date]."*

15. Paragraph 18 requires the Tribunal, in determining the new pitch fee, to have regard to particular factors:

- Any sums expended by the site owner since the last review date on improvements;
- Any deterioration in the condition and any decrease in the amenity of the site;

Any reduction in the services provided by the site owner and any deterioration in the quality of those services;

- Any legislative changes affecting costs.

Hearing

16. The hearing took place on 6th January 2025 at Guildford Law Courts. Mr Steve Drew, company secretary, attended for the Applicant together with Mr Sean Buckley, area manager. The Respondent attended in person together with her nephew Mr Marc Cleeter.
17. The Respondent explained that her statement was late as she had been overseas visiting her son who was unwell. As soon as she returned she had prepared her statement with help from her granddaughter and then sent that to the Applicant and the Respondent.
18. Mr Drew indicated that he had no real objection provided the Tribunal would afford him opportunity to respond to some of the points raised. This was why Mr Buckley was in attendance.
19. The Tribunal indicated it would allow the statement to be presented and would afford Mr Drew opportunity to respond to the same. The Tribunal confirmed it considered such approach to be proportionate given everyone was in attendance at the hearing today and the matters related to a pitch fee review which was over one year old.
20. Mr Drew presented his case. He relied upon the bundle and the pitch fee review notice [40-48] seeking an increase to £264.72 per month. He explained the pitch fee has been reviewed annually since the agreement commenced in April 2008 at an initial pitch fee of £154 per month. A copy

of the written agreement was in the bundle [27-39]. The pitch fee itself has been increased annually in line with indexation.

21. Mr Drew confirmed under the agreement the pitch fee is made up of two elements, the right to station a home on the pitch and maintenance of the communal areas, namely things which are not within the responsibility of the home owner. He accepted that the matters within the responsibility of the home owner were not specifically defined in the agreement, but said it was implied that all items on the pitch except the base are the pitch occupier's responsibility.
22. Mr Drew confirmed there has been no site manager resident on the site since 2017 when the last manager left. Since then, the responsibility for this site has rested with the manager resident at the Applicant's site in Turners Hill together with the area manager, Mr Buckley, who was present.
23. Mr Drew submitted that the amenity of the site had been maintained, and that there was less need for an office on site because in recent years most home owners pay by direct debit, so there is no need for an on site facility to receive cheques.
24. In response to the statement of the Respondent Mr Drew stated he had not been present at the inspection on 30th May 2024 to which the Respondent referred. This was in fact Mr David Blake who was the operations manager for the Applicant. Mr Drew indicated he did not recognise the characterisation of Mr Blake as set out in the Respondent's witness statement. He had a written statement from Mr Blake rebutting the description of the meeting but the Tribunal declined to look at the same.
25. In respect of the steps to Mrs Dziadek's home he stated that these were her responsibility. They were on the pitch and not part of the common areas or the slab for the home. He stated that the Applicant was responsible for the base or slab which the home rested on only.
26. Mrs Dziadek was allowed to question Mr Drew and Mr Buckley.
27. Mr Buckley confirmed there are two small communal areas. Previously there was a third area which had been redeveloped with the redevelopment being completed 2 years ago.
28. Upon completion of the Applicant's case the Tribunal reminded the Respondent of its jurisdiction and the limits placed upon this, notably that it could not interfere with the original pitch fee fixed by agreement between the parties.

29. Mrs Dziadek then presented her case. She accepted much of what had been said by Mr Drew, except communication which she said was poor, and the behaviour of Mr Blake. She agreed that her calculation of the pitch fee in her statement, where she said she has been paying only £3 less than the new amount, failed to take account of the fact that the water charge of £9.40 was separate to the pitch fee. She explained this was a misunderstanding between her and her granddaughter.
30. She agreed it was not Mr Drew who was present at the inspection and apologised to him. She accepted it was Mr Blake. She was adamant as to her version of events that took place at the inspection.
31. Mrs Dziadek said she had always understood the Applicant would be responsible for the steps to her home. She referred to a letter she had received about a year after she moved in which she had not disclosed but which referred to the steps and suggested the Applicant would repair the same. On questioning by the Tribunal she stated that the steps whilst built by the Applicant when her home was first installed were not part of the base. However, Mrs Dziadek said she had believed that anything such as the steps installed by the site owner would be maintained by them, and due to subsidence there was now a 5 inch gap between the steps and the door.
32. The steps appear to be a substantial construction, Mrs Dziadek informed the Tribunal that they are made of brick, paving slabs and railings. She explained she had now made arrangements to have a veranda built which would replace the steps.
33. Mrs Dziadek agreed she had not referred to the loss of the communal area which had been redeveloped in her statement. This was because she had not objected to the development. She was not overly concerned about this.
34. Mrs Dziadek also referred to issues relating to another resident. She had not referred to these within her statement. She explained the police had not assisted and had suggested she speak to the Applicant.
35. Mr Buckley explained that Mr Blake had spoken to the resident in question. He explained they had only received one complaint and as a result it was difficult for the Applicant to take any more action without further complaints.

Decision

36. The Tribunal thanks both parties for their submissions.

37. We did agree to Mrs Dziadek relying upon her statement and heard submissions which went beyond the issues raised. Mr Drew and Mr Buckley did their best to respond to these matters.
38. We will endeavour to address each of the points which were raised. Firstly, no challenge was made as to the Pitch Fee notice or that the same properly identified the CPI increase. We are satisfied that the notice is valid.
39. The previous pitch fee was £251.64 having been reviewed on 1st January 2023. Mrs Dziadek agreed she had been paying this sum together with a charge for water which she acknowledged was a separate matter to the pitch fee. The reviewed sum proposed adopted a CPI adjustment of 4.6% and proposed a pitch fee of £264.72 from 1st January 2024. We accept this calculation.
40. Mrs Dziadek expressed her discontent with the fact that it appeared from what she understood that differing pitches paid differing pitch fees. She considered this unfair given the services received by each are effectively the same. We did explain at the hearing that in determining this application we had no jurisdiction over the initial pitch fee fixed. It is not unusual for pitch fees even on the same site to vary. This is often a result of the fact pitch fee agreements have been granted at different times with differing amounts agreed as the starting point. We are not satisfied that this is a matter we can take account of in determining the pitch fee payable.
41. We have considered Mrs Dziadek's evidence both within her statement and orally as to whether or not there has been any loss of amenity which might rebut the presumption of the statutory increase.
42. In respect of the steps to her home Mrs Dziadek accepted these were not part of the base. Whilst it may have been that they were erected as part of the original siting of her home this was some 16 odd years ago. We are not satisfied that under her pitch fee agreement the Applicant is obligated to repair the same. These, as with the mobile home itself, are the responsibility of the pitch occupier. We do not consider these give any grounds for reduction.
43. Turning to the loss of the communal area which was redeveloped. This happened over 2 years ago. Mrs Dziadek made clear in her oral evidence she did not object to this and had not challenged the same. At least 2 previous pitch fee reviews have taken place without challenge since. We are not satisfied that this gives rise to any reduction in amenity.
44. Next we have looked at the loss of an on site manager. It was accepted there is a manager, just not based on site and also that Mr Buckley has an

overarching responsibility as an area manager covering the company's parks in the South East. However there has been no onsite manager since 2017 and no challenge until now. We are not satisfied that this can be said to amount to a loss of amenity within the period before us on this review.

45. Mrs Dziadek raises other matters of complaint which can be neutrally described as relating to communication from and with the Applicant. As noted at the hearing Mr Drew and Mr Buckley heard first hand how upset the Respondent was. The Tribunal pointed out to the Respondent it expects this to be fed back and hopes the Applicant will reflect on how it can improve its communication with home owners on its parks.
46. We did stand back and consider as a whole the Respondent's oral and written case to consider if there were any other matters we ought to have regard to within our statutory duty to consider the pitch fee review. We were satisfied there were not.
47. We find that the pitch fee payable by the Respondent from 1st January 2024 is the sum of £264.72 per month as proposed in the notice served by the Applicant.

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.