



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

Case Reference	: MAN/ooCE/PHI/2023/0285 - 0307
Property	: 19 Park Homes at Orange Croft Caravan Site, Orange Croft, Tickhill, Doncaster, DN11 9EW.
Applicant Represented by	: City of Doncaster Council Scott Fawcett, Assistant Director of Legal Services.
Respondents	: Jane Burrell (Pitch 1), Paul Walton (Pitch 2), Roderick Hope (Pitch 4), Dean Porter (Pitch 6), Daniel Maughan (Pitch 7), Ernest Broom (Pitch 8), Brian Gallagher (Pitch 11), Beverley Smith (Pitch 13), Howard Fleetwood (Pitch 15), Micheal Walton (Pitch 16), Andrew Louch (Pitch 17), Jan Emerson (Pitch 18), Geoff Breese (Pitch 22), Christopher Olerton (Pitch 23), Keith Nesbitt (Pitch 24), Michelle Spencer (Pitch 25), Gregory Allen (Pitch 26), Jane Alison Genders (Pitch 27), Paul Traves (Pitch 31).
Type of Application	: Pitch fee increase, Mobile Homes Act 1983
Tribunal Members	: Judge C. P. Tonge, LLB, BA. Mrs S. A. Kendall, BSc, MRICS
Date	: 7 February 2024

DECISION

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Application and Background

1. The Applicant, the City of Doncaster Council, is the site owner of a residential park homes site at Orange Croft Caravan Site, Orange Croft, Tickhill, Doncaster, DN11 9EW “the site”.
2. The Applicant seeks to increase the pitch fees at the site. This application is for this Tribunal to consider whether or not the proposed increase in pitch fees at 19 park homes on this site is fair and reasonable.
3. The site is a protected site within the meaning ascribed in the Mobile Homes Act 1983, “the Act”. The site has 34 pitches for mobile homes and reviews occur of the pitch fees on the site in February of each year.
4. A review of pitch fees was conducted at the site in February 2023. The Applicant went through its process of creating a proposal for its councillors to consider. That proposal was adopted by a vote of the full council. The result being that the Applicant determined that it would increase the pitch fee for each pitch on this site by 10%. This being during a period of high inflation.
5. The Applicant served pitch fee review forms and notices pursuant to the Act and the Mobile Homes (Pitch Fees) (Prescribed forms) (England) Regulations 2013, on 23 February 2023, on every pitch holder at the site. These forms and notices comply with the legislation referred to. They identify the Retail Price Index “RPI” increase between the two reviews of February 2022 and February 2023 as 13.4 %. The effective date for the pitch fee increases from £32.01 to £35.21, being 3 April 2023.
6. On 27 March 2023 the Applicant received a collective objection from 23 pitch holders at the site, objecting to the pitch fee increase. This document states that Jane Burrell of plot 1 will liaise with the Applicant in relation to the case, on behalf of all the other occupiers of the plots that object to the increase in the pitch fees.
7. On 18 May 2023 the Applicant made 23 applications to the tribunal requesting that a determination be made as to the proper level of the pitch fee increase.
8. During these proceedings four of the original objectors to this pitch fee increase have withdrawn from the case, leaving the 19 pitch fee holders detailed above as the Respondents in the case.
9. On 21 September 2023 a legal officer of the tribunal issued Directions in the case, incorporating all 23 applications into one case. These Directions

include a determination that the tribunal considered that the case should be dealt with as a determination of the issues being made without an oral hearing or an inspection of the site. They include a provision that any party to the case could require that an oral hearing take place or request that an inspection of the site take place. No such requests were made.

10. The parties served evidence and submissions in compliance with these Directions. The case was then allocated to the Tribunal who were to deal with the determination of the case, listed to take place on 7 February 2024.
11. On 18 December 2023, Judge Tonge (sitting alone) issued further Directions requiring the Applicant to serve an indexed and paginated hearing bundle, to assist the Tribunal in determination of the issues. These Directions make it clear that the hearing bundle does not have to include copies of the 23 applications that have been made, as the Tribunal is aware of their content. The Directions also inform the parties that in relation to a costs application being made by the Applicant, the Tribunal can only make a costs order if such an order is deemed to be appropriate pursuant to rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 “the Rules”. Further, Judge Tonge did not think that an inspection was necessary, so the case continued without an inspection being arranged.
12. The Applicant served a hearing bundle in compliance with the Directions of 18 December 2023.

The law **The Mobile Homes Act 1983**

Paragraph 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

Paragraph 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 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) 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.

Paragraph 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);

- (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
- (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 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.

Paragraph 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).
- (2) Paragraph 18(3) above applies for the purposes of this paragraph as it applies for the purposes of paragraph 18.

The appropriate judicial body is the Residential Property Tribunal.

The Determination

13. The Tribunal met on 7 February 2024 to consider this case.
14. The Tribunal considers the application forms and the hearing bundle of 420 pages. This bundle contains a statement of case served by the Applicant and a joint statement of case served by the Respondents.
15. The Applicant exhibits 7 specimen mobile home tenancy agreements, these are proforma documents with similar terms providing gaps for names, plot numbers, dates and signatures to be added. Pitch fee review

notices and forms are served for all the occupiers of the site that are parties to the case. The Applicant's proposal to the Councillors and minutes of the Councillor's vote adopting the proposal are exhibited, as is the joint objection to the proposed pitch fee increase.

16. The Respondents' exhibit various requests for information relating to the proposed pitch fee increase and the replies of the various employees of the Applicant to those requests. Other exhibits are produced, one relating to the withdrawal of 4 of the Respondents from the case.
17. The Applicant has served a reply to the Respondent's statement of case and a schedule of legal costs that have been expended by the Applicant in the case.
18. The Tribunal determines that the Applicant has followed the procedures set out by the Act in seeking to increase the pitch fees.
19. The Tribunal notes that the written notices proposing the reviewed pitch fee of £35.21 per week were served on all the occupiers of the site on 23 February 2023. As such the Tribunal determines that the Mobile Homes Act 2023 does not apply to this case. The case is governed by the provisions of the Mobile Homes Act 1983. The 1983 Act, schedule 1, chapter 2, paragraphs 16 to 20 (inclusive) are recited above in the law section of this Decision.
20. The Tribunal confirms that the increase in retail price index appropriate to a review of pitch fees in February 2023 was 13.4%. This is calculated as prescribed in paragraph 20 of the Act as follows; the review of pitch fees notice being served in February 2023, the last published RPI figure would then have been 360.4 (December 2022). The RPI figure published 12 months before that was 317.7 (December 2021). Deduct 317.7 from 360.4 giving a figure for the increase of the RPI during those 12 months of 42.7, converted into a percentage of 317.7 results in a percentage increase of 13.44% rounded down to 13.4%.
21. The agreed rent on the site as of February 2022 was £32.01 per week. Paragraph 20 of the Act creates a presumption that the rent review increase should be no more than 13.4% of £32.01, being £4.29. Hence, pursuant to this presumption the reviewed rent for 2023 should increase to no more than £36.30 per week. It is common ground that the Applicant cannot seek to increase the presumed maximum because there have been no improvements to the site since the last review date of February 2022.
22. The Tribunal notes that the Applicant seeks to increase the rent to the lesser figure of £35.21 per week, being £1.09 less than the presumed maximum figure.

23. That presumed maximum figure may be decreased pursuant to the provisions of paragraph 18 and 19 of the Act (see above).
24. The Tribunal determines that paragraph 19 of the Act does not bite to change the presumed maximum increase of pitch fee in this case.
25. Paragraph 18(1)(aa) and (bb) do apply and the Tribunal must therefore consider the evidence in the case to determine if there have been any deterioration of amenities or reduction in services that are provided to the occupiers of the site since 1983 that have not already been taken into account in the reduction of the pitch fees being charged.
26. The Tribunal considers the statement of case of the Respondents and will summarise the issues being raised.
27. Paragraph 11.1 to 11.9. The Respondents submit that the proposed pitch fee increase is unreasonable and unfair, comparing the present proposal of increase to prior increases. These submissions incorporate submissions relating to the right to buy scheme and social housing. These submissions are not relevant to Paragraph 18(1)(aa) and (bb) of the Act.
28. The Respondents submit that a 5% increase in the pitch fee would be more reasonable. The Tribunal takes this submission into account, but it ignores the fact that the Act presumes an increase of 13.4%.
29. Paragraph 11.10 to 11.24. The Respondents submit that the wash block facilities have become inadequate. This block provides space for meters, showers, toilets and laundry facilities for the 34 occupiers of the site. Originally, occupiers were responsible for providing their own washing machines. PAT testing was introduced and as a result the Applicant insisted that for safety reasons the then present machines be withdrawn from use and be replaced by machines that were owned by the Applicant and PAT tested upon the Applicant's instructions.
30. At the same time there was a renovation of the block, affording more room for the meters and less room for the washing machines, restricting access to the machines. This has become even worse because the occupiers have been told that they should only use two washing machines at any one time due to inadequate drainage of wastewater from the block (exhibit OCR2). Further, there are submissions relating to the poor design of the showers and a general lack of repairs to the contents and fixtures within this block.
31. The Applicant responds to these submissions pointing out that the renovations took place during 2016 and 2017 and submits that the Tribunal cannot take account of these problems for present purposes because they pre-date the pitch fee review of 2022, so could only be relevant to earlier pitch fee reviews.

32. The Tribunal does not agree with the Applicant's submissions in this regard. The Tribunal can take account of any deterioration of amenities or reduction in services that are provided to the occupiers of the site since 1983 (when the Act came into force) provided that they have not already been taken into account in the reduction of the pitch fees being charged. The Tribunal determines that this is such a deterioration of amenities or reduction in services, commencing in or about 2016, but that is still ongoing and getting worse.
33. Paragraph 11.25. The Respondent's refer to CCTV coverage around the wash block facility. This was originally installed at the expense of the occupiers. Some years later the Respondents' system was replaced by a system installed by the Applicant. More years passed by until it has recently been discovered that the system is not working.
34. The Applicant submits, correctly, that the pitch agreements do not require the owner to provide CCTV. Further, the Respondents' system was removed in 2016 because it did not comply with the then current regulations relating to CCTV. The replacement system was paid for by a grant (not by the Applicant). There is no duty upon the Applicant to provide or maintain this system. The Tribunal agrees with the submissions of the Applicant. This issue will not bring about a reduction in the pitch fee.
35. Paragraph 12 to 12.3. These deal with improvements and money spent by the Respondents to improve the site. The Applicant responds that much of this was done without permission and should not result in a reduction of the pitch fee. The Tribunal determines that these issues will not reduce the pitch fee. The Respondents cannot make their own improvements and then ask for them to be taken into account so as to reduce the pitch fee.
36. Paragraph 12.4. This deals with a decision taken some years ago to move from collecting pitch fees 48 times per year to collecting pitch fees every week. There was an error made during this change that took two years to resolve. This issue was resolved. The Tribunal determines that this cannot now be taken into account in setting the pitch fees on the site.
37. Paragraph 12.5. The Respondents submit that during 2010 it was noted that the mobile homes on the site are too close together for fire safety purposes. The Applicant has been trying to decide how to deal with this ever since. The Applicant replies to this stating that an improvement will be made during 2024 to put matters right and that the cost of this will be borne by the Applicant. The Tribunal determines that this is a fault that has always existed and will only be resolved by improving the site, it is not a deterioration, it is a necessary improvement. This issue will not result in a reduction of the pitch fee.

38. Paragraph 12.6 deals with other occupiers of the site who may wish to become Respondents in the case. The Tribunal determines that it is not necessary for this point to be considered. Any judgement favourable to 19 Respondents should also be applied by the Applicant in relation to all occupiers of the site.
39. Paragraph 12.10 asserts that some of the Respondents are suffering financial difficulties without any detail being provided. The Tribunal determines that this cannot be taken into account in setting the pitch fees on the site.
40. Other submissions are made within the statement of case, but none of them are capable of reducing the pitch fees on the site. These include allegations that fire safety and risk assessments are not being carried out as required. The Applicant replies to the effect that they are and details that which is being done. Further, there is an allegation that the Applicant's work men are not working efficiently when they attend to deal with repairs, sometimes sitting about when they should be working.
41. The Tribunal returns to the issue of the deterioration in condition and decrease in amenity provided by the wash block facility on the site. The Tribunal must fix a figure to be deducted from the pitch fee increase to allow for this issue (paragraph 18(1)(aa) of the Act). The Tribunal has calculated the presumed maximum pitch fee, on this review, pursuant to paragraph 20 of the Act as £36.30 per week. The Tribunal notes that the Applicant has sought to limit the increase in the pitch fee to £35.21 per week. The Tribunal considers it to be fair, just and reasonable to agree to reduce the presumed maximum pitch fee to £35.21 per week taking account of the wash block facility. The Tribunal points out that in compliance with Paragraph 18(1)(aa) of the Act, the Respondents will not be able to raise this issue again in the future in any subsequent pitch fee review.
42. The Applicant seeks to apply for a costs order against the Respondents in the sum of £4,987.50. The Tribunal points out that such an order can only be made in circumstances where the Respondents are found to have acted in a highly unreasonable manner in defending a case (rule 13 of the Rules). The Tribunal determines that the Respondents have done no more than respond to this application and seek to obtain information to put before the Tribunal in the case. This is not unreasonable conduct. The Tribunal will not make any order as to costs.

Decision

43. The Applicant site owner has conducted a pitch fee review that demands payment of increased pitch fees at this site of £35.21 per week, payable as

from 3 April 2023. The Tribunal decides that it is fair, just and reasonable to confirm that this pitch fee is payable, as demanded, from each pitch holder on this site.

44. Any arrears of pitch fee payments should be paid by the occupiers to the Applicant as soon as reasonably practicable and in event by 4pm on Friday 8 March 2024. The Tribunal does not know what payments have been made since the last pitch fee review and cannot calculate any sums due to be paid.

45. There are no orders as to costs.

46. Appeal against this Decision is the Upper Tribunal. Any Party that seeks to appeal against this Decision has 28 days from the date that this Decision is sent to the Parties to deliver to this Tribunal an application for permission to appeal, stating the grounds of appeal, particulars of those grounds, the paragraph numbers of the Decision that are challenged and the result that the appellant seeks in making the appeal.

Judge C. P. Tonge

12th February 2024