



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

**Case Reference** : **CAM/12UE/PHI/2024/0017**

**HMCTS** : **Paper**

**Site** : **St Ives Park, Needingworth Road, St Ives PE27  
5NT**

**Applicant** : **Berkeley Leisure Group**

**Respondents** : **Mrs Eileen Hawes of 35 Brookway**

**Type of application** : **Application under Mobile Homes Act 1983 to  
determine a pitch fee**

**Tribunal** : **Judge JR Morris**

**Date of Application** : **22 March 2024**  
**Date of Directions** : **27 January 2025**  
**Date of Decision** : **23 April 2025**

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**DECISION**

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**Decision**

1. The Tribunal determined the new pitch fee for 35 Brookway is £157.94 per month to take effect on the Review Date on 1 January 2024.

**Reasons**

**Introduction**

2. The Applicant applied on 22 March 2024 for a determination of the pitch fee payable by the Respondent for 35 Brookway (the Home).

***Directions***

3. Directions were issued on 27 January 2025. In compliance with which the Applicant provided to the Tribunal and the Respondent by 24 February 2025 copies of:
  - The Application Form;
  - The Directions with Reply Form annexed;

- The Notice of Proposed Pitch dated 18<sup>th</sup> November 2021 sent to the Respondent;
  - The Site Licence;
  - Written Statement under the Mobile Homes Act 1983 (as amended) of the Respondent;
  - A statement of case supported by a Witness Statement; and
  - CPI data.
4. The Directions required the Respondent to send to the Applicant and the Tribunal by 3 March 2025 the completed Reply Form annexed to the Directions. In addition, the Respondent was to provide a statement of case explaining why agreement cannot be reached on the proposed increase of the pitch fee. If reliance is placed on any of the matters in paragraph 18(1) of Chapter 2 of Part 1, the Respondent was to say why it would be unreasonable to increase the pitch fee e.g. if the condition of the Site had deteriorated or there had been a decrease in amenities or reduction in services. The Respondent provided a completed Reply Form stating that she did not wish to have a hearing. She also provided a statement of case setting out the reasons for her refusal to agree to the pitch fee increase.

### ***Notice of Increase***

5. The Applicant by a Notice in the prescribed form under paragraph 25A (1) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983, dated 17 November 2023, proposed a new pitch fee for 35 Brookway of £157.94 per month to take effect on the Review Date on 1 January 2024 to replace the current pitch fee of £150.72 per month reviewed on 1 January 2023, giving an increase of £6.93 calculated from an CPI increase of 4.6% plus £0.29 recoverable cost of Local Authority Licensing Charge (£327.00 ÷ 95 Homes = £0.29 per month per Home).
6. The Notice stated that in accordance with paragraph 20(A1) of Chapter 2 of Part 1 of Schedule 1 of the Mobile Homes Act 1983 the calculation was based upon the percentage increase in the Consumer Price Index (CPI) over 12 months by reference to the RPI published for October 2023 which was 4.6%. (a copy of the CPI table was provided).
7. A covering letter was included with the Notice (copy provided) which stated the increase and offered discretionary discounts for early payment and payment by direct debit. The letter also set out the Water and Sewerage Charges but these charges were not included in the Notice and therefore not applicable to the Respondent. A pitch fee acceptance form was annexed to the letter.
8. A copy of the Site Licence was provided dated 1 September 1993 showing the Site to be a “protected site” under the legislation and permitting 105 park homes. The Schedule of Conditions appeared to be those commonly required of park home sites.
9. A copy of the Respondent’s Written Statement of Agreement was provided which commenced on 28 October 1994 and was originally between a Mr John Boyle and the Applicant and was subsequently assigned to the Respondent on 24 October

2019. On 1 May 2021 an additional occupant was noted as being Mrs Marie Neat, a live in carer. The Agreement contains the standard terms and schedules.

### Site Inspection and Hearing

10. The Tribunal did not consider a site inspection was necessary for a determination of the issues. The Directions Order stated that the Tribunal considered the cases suitable for a Paper Determination on or after 7 April 2025. If the parties wished to have an oral hearing, then a request was to be made by 3 March 2025. No request was received. The Tribunal therefore proceeded with a paper determination.

### Applicant's Statement of Case

11. The Applicant stated that on 17 November 2023 a Notice of a proposed new pitch fee for the review due on 1 January 2024 was served upon each of the Occupiers of the Site, including the Respondent (copy provided).
12. The increase proposed by the Applicant was 4.6%. The notice was to take effect, if agreed, on 1st January 2024. The Respondent did not agree the Applicant's pitch fee proposal.
13. The Applicant relied upon Implied Term 20(A1) in Part 1 of Schedule 1 to the Mobile Homes Act 1983, as now amended, which gives rise to 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 Consumer Price Index calculated by reference only to:
  - (a) the latest index (132.0) and
  - (b) the index published for the month which was 12 months before (126.2) that to which the latest index relates. Confirmation of the CPI indexation was provided.
14. The proposed pitch fee is calculated as follows:

Element	Amount
2023 Pitch fee	£139.77
Indexation @ 4.6%	£6.93
Local authority charge	£0.29
<b>2024 Proposed fee</b>	<b>£157.94</b>

15. In support of its statement of case Mr Stephen Drew, Director of the Applicant, provided a witness statement. He said that the Applicant had operated the Site since acquiring it in June 1988 and at the time of the notice there were 93 occupied pitches on the Site and the Site Licence permits up to 105 caravans. He said that the Site is a residential mobile home park for park home owners aged over 50 years. The Respondent has resided in the Home since 24 October 2019.
16. He said pitch fees on the Site are reviewed from 1 January each year and on 17 November 2023 the Applicant wrote to all Occupiers proposing a review from 1 January 2024 based on the change in CPI over the preceding year.

## **Respondent's Statement of Case**

17. The Respondent stated in an email to the Applicant dated 8 April 2024 and, in a letter, dated 5 February 2025 to the Tribunal that she objected to the increase because:
- a) The electric box is falling to pieces, it is in a state of disrepair and open to the elements, as her Home is all electric, this is of great concern to her.
  - b) The street lamp beside 14 Willow Way was not working.
  - c) She also had to get someone to clear the drain outside her Home because of problems with the flow of water which rose inside the bathroom utilities.

## **Applicant's Response**

18. The Applicant responded on 10 April 2024 to the email of 8 April 2024 and in the Statement of Case as follows:
- a) There was a program to replace electric boxes that an electrical inspection had identified as requiring replacement.
  - b) The streetlamp has been attended by the external provider and was now working.
  - c) It was noted that the Respondent had contacted the Site Office about engaging plumbers and she was given the details of two tradespeople and it was understood that she appointed her own contractor. The Applicant said that it cannot help with that expense because responsibility for the cause of the issue was unclear.

## **Findings**

19. The Tribunal was satisfied that the Applicant had a program to replace electric boxes under which the Respondent's electric box would be refurbished, it not being in either the Applicant's or the Respondent's interests to put the electric power supply to the Home at risk.
20. The Tribunal accepted, in the absence of evidence to the contrary, the Applicant's statement that the streetlamp beside 14 Willow Way had been attended to by the external provider and was now working.
21. The Tribunal found that in the absence of evidence, such as a statement from the contractor engaged to clear the drain, the Respondent had not shown that the clearing of any blockage had been the responsibility of the Applicant.
22. The Tribunal found that none of the matters raised by the Respondent showed there had been a deterioration in condition of or decrease in amenities or reduction in services at the Site under paragraph 18(1) of Chapter 2 of Part 1, such that it would be unreasonable to increase the pitch fee.

## **Decision**

23. The Tribunal determined that there was no reason why the presumption of an increase in the pitch fee under Implied Term 20(A1) in Part 1 of schedule 1 to the Mobile Homes Act 1983 as amended should not apply.
24. Therefore, the Tribunal determined that the new pitch fee for 35 Brookway is £157.94 per month to take effect on the Review Date on 1 January 2024 to replace the current pitch fee of £150.72 per month reviewed on 1 January 2023.

**Judge JR Morris**

### **Annex – Right of Appeal**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e., give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.