



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

Case Reference : **CAM/22UL/PHI/2024/0016**

HMCTS : **Paper**

Site : **Shangri-Law Park, Kingsmans Farm Road,
Hockley SS5 6QE**

Applicant : **Berkeley Leisure Group**

Respondents : **Mr Gary E Sargent of 23 Shangri-La Park**

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**

DECISION

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Decision

1. The Tribunal determines the new pitch fee for 23 Shangri-La Park as £276.29 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 23 Shangri-La Park (“the Home”, which includes the pitch).

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 Fee dated 17 November 2021 sent to the Respondent;
 - A copy of the Site Licence;
 - A receipt by the Respondent of a Written Statement under the Mobile Homes Act 1983 (as amended);
 - 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, to say why it would be unreasonable to increase the pitch fee e.g. if the condition of the Site has deteriorated or there has been a decrease in amenities or reduction in services. The Respondent provided a completed Reply Form dated 2 February 2025 stating that he did not wish to have a hearing.
5. The Respondent also provided a letter confirming that he did not agree to the pitch fee increase as follow:
- “I do not believe the increase is justified. You [The Applicant] state that the increase is due the Consumer Price Index being 4.6%. However, I do not see how this impacts on my pitch fee. Moreover, I believe that the pitch fee should relate directly to increases in costs incurred by Berkeley Leisure Group Limited and not the rate of inflation.
- It would be useful to know what costs you are using for the basis of your calculations and by how much they have increased since last year’s rise in pitch fees, because this figure relates directly to my pitch fee.
- As you are aware, there is a financial crisis, energy costs are still high and many people are living in both food and fuel poverty. Personally, I am on a fixed income and I will find it difficult to maintain my current standard of living, should an increase be imposed.”
6. The Respondent also provided a statement of case by way of two letters setting out the specific reasons for his refusal to agree to the pitch fee increase.

Notice of Increase

7. 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 23 Shangri-La of £276.29 per month to take effect on the Review Date on 1 January 2024 to replace the current pitch fee of £265.46 per month reviewed on 1 January 2023, giving an increase of £12.15 calculated from an CPI increase of 4.6% less £1.32 to take account previous years recoverable cost.

8. 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).
9. 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. It was noted that water charges are included in the pitch fee and no additional charge is made. A pitch fee acceptance form was annexed to the letter.
10. A copy of the Site Licence was provided dated 25 November 2014 showing the Site to be a “protected site” under the legislation and permitting 29 park homes. The Schedule of Conditions appeared to be those commonly required of park home sites.
11. A copy of the Respondent’s Written Statement of Agreement was not provided however a Receipt of Written Statement dated 8 March 2006 was provided which had been sent to the Applicant.
12. In a letter dated 26 March 2021 the Respondent notified the Applicant that he gave authority to his sister, Christine Gould, to manage his financial, housing medical and welfare affairs on his behalf until 31 December 2021 for health reasons. From correspondence between Ms Gould and the Applicant it appears a Receipt of Written Statement was sent to the Applicant’s predecessors indicating that the Written Statement of Agreement was assigned to the Respondent’s father, Mr George Sargent, and the Respondent’s mother. The Home and the Written Statement of Agreement was subsequently gifted to the Respondent in his mother’s will. The Respondent has resided at the Home with his parents for over 30 years, presumably prior to the current rule that the Site is to be exclusively occupied by persons over the age of 50. Although the Respondent is not yet 50 years of age the longevity of his residency exempts him personally from the rule.
13. Apart from giving the background to the Respondent’s occupancy the correspondence provided dated 27 March 2021 from Ms Gould to the Applicant, dated 29 April 2021 from the Applicant to Mrs Gould, dated 9 May 2021 from Mrs Gould to the Applicant and dated 17 May 2021 from the Applicant to Mrs Gould referred to other matters which are not relevant to this Application.

Site Inspection and Hearing

14. The Tribunal did not consider a site inspection was necessary for a determination of the issues. The Applicant provided a comprehensive plan of the Site and surrounding area and the Respondent provided a detailed plan of the Home as part of the application for refurbishment to create a Mediterranean style garden. 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

15. 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 of Occupiers of the Site, including the Respondent (copy provided).
16. 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 Applicants' pitch fee proposal.
17. 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.
18. The proposed pitch fee is calculated as follows:

Element	Amount
2023 Pitch fee	£265.46
Previous years recharges	- £1.32
	£264.14
Indexation @ 4.6%	£12.15
2024 Proposed fee	£276.29

19. 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 January 2014 and there are 26 occupied pitches on the Site. He said that the Site is a residential mobile home park for park home owners aged over 50 years.
20. 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

21. The Respondent provided a statement of case in two letters. In the first letter dated 13 January 2025 the Respondent stated that he suffered from health issues and that his occupancy as a person under the age of 50 years was a Reserved Right i.e., he was not subject to any new or different rules unless they were a legal requirement, as stated in his sister's correspondence. He said that he believed that this had made him subject to harassment which included demands to carry out maintenance work on the pitch whilst he was a carer for his mother prior to

her death in 2016. He added that his family including himself had maintained the Home and recently his sister on his behalf had submitted a request to the Applicant to change the garden to one of a Mediterranean style with gravel and terracotta pots to make it easier to manage (copy of application provided). The Respondent went on to refer to matters which he considered had amounted to a deterioration in the Site and which were set out in more detail in the second letter.

22. The second letter dated 2 February 2025 the Respondent stated there had been a decrease in the amenity of the site and adjoining land as follows:

1) *Removal of the Copse*

23. The Respondent said that there had been a copse of trees visible from his sitting room window, which had been felled and replaced with several large, range-style park homes on an adjacent site owned by the Applicant. The new mobile homes are elevated, so they overlook the front of the Home (photograph provided).

2) *Leylandii Trees*

24. The Respondent said that beyond the rear fence, the pitch had backed onto fields. A housing estate (the Development) has since been constructed and the developer has planted leylandii along the fence in the gardens of the houses, which have blocked the light to the back garden and the main bedroom. The Respondent said that he understood the responsibility for keeping the 'leylandii hedge' trimmed to below 8 feet tall is now that of the householders on the Development. The Respondent said that he believed the height of the trees is nearer 10-12 feet (photographs provided) and that the Applicant had an obligation to ensure the householders on the Development kept the hedge at the agreed height. Reference was made to the Antisocial Behaviour Act 2003 which stated that a hedge is considered high if it is over 2 metres tall and the local authority can intervene on behalf of the Applicant if a complaint is made. The Respondent submitted that the Applicant should remind the householders on the Development of their obligation and, if no action is taken, to make a complaint to the local authority. The lack of light had made the garden of the Home muddy which was the reason for applying to lay a Mediterranean style garden (details of application were provided).

3) *Carriageway Verges*

25. The Respondent stated that the condition of the carriageway verges had been neglected until recently saying that on 7 January 2025 only the most obvious weeds had been pulled out by Site personnel (photograph provided).

4) *Rodent Infestation*

26. The Respondent said that recently whilst having his bedroom decorated it was pointed out that the floor had been gnawed through by rodents (photograph provided), the presence of which around the Home he attributed to the sad loss of his cat. However, he believed that the problem must be site wide and considered the Applicant should take measures to deal with the infestation.

5) Drains

27. The Respondent said that for about 10 years there has been a problem with the drains on the Site which he believed was due to the deterioration in the sewers. Periodically, there is an offensive smell, which increases significantly in warm weather. The Applicant's Site Manager attributes the issue to elderly residents flushing unsuitable items down their toilets. Due to the reoccurrence and timing of this problem, the Respondent no longer found the explanation credible.

6) Drain Cover

28. The Respondent said that the inspection chamber cover outside the Home is no longer flush with its surroundings (photograph provided) making the path uneven. The matter has been reported to the Site Manager who stated that the inspection chamber is on the pitch and therefore the occupier's responsibility. However, the respondent submitted that as the drain is part of the infrastructure of the Site, its maintenance is the responsibility of the Site Owner.
29. The Respondent concluded saying that at a time of increased costs it was not fair that the Applicant should increase the pitch fee by the rate of inflation using the Consumer Price Index, just because it can.

Applicant's Response

30. The Applicant responded in the statement of case as follows:

1) Removal of the Copse

31. The Applicant provided a photograph of the outlook from the Home which was of the concrete bases and surrounding grass of two pitches (referring to the Site and area plan provided, pitches 6 and 7) which were currently vacant and had no mobile homes sited on them. The Applicant said that the area is awaiting development. Until recently the outlook from the Home would have been onto the homes occupying pitches 6 and 7 opposite the Home. The newer park homes on the adjacent Kingfisher Park are only just visible behind the rear fence of the two vacant pitches and Site boundary fence.

2) Leylandii Trees

32. The three-home Development behind the Home was constructed before the Applicant acquired the Site. The Applicant provided a photograph of the driveway into the Development which showed the boundary hedge in the background. The hedge (photograph provided of the view from the Site) is the responsibility of the owner of the Development for whom the Site Managers have the contact details. The Development owner carries out maintenance to the hedge from time to time and has requested Park Home Occupiers not to cut the top of the hedge. Park Home Occupiers concerned about the height of the hedge need only contact the Site Managers who will speak to the Development owner. The Applicant said the Respondent has not raised the issue of the hedge being an issue before.

33. The Applicant said consent had been granted in respect of the Respondent's application to refurbish the garden on 27 February 2025. The application states the conifers prevent adequate light and warmth but do not refer to them as a nuisance.

3) Carriageway Verges

34. Regarding the carriageway verges the Applicant said that the condition of the single roadway on the park is regularly reviewed by the Site Managers who reside on the neighbouring Halcyon Park. Based on that review the Managers have, in 2025, been clearing the gulleys to the sides of the road. A photograph was provided of some of the spoil from clearing the gutters. The Site personnel referred to by the Respondent was the Site Manager who is on the Site regularly and is well known to the respondent.

4) Rodent Infestation

35. The Applicant stated that the rat problem referred to by the Respondent is most likely to have been caused by the home at pitch number 6 which is diagonally opposite the Home. This home and the pitch upon which it was sited was in a poor state (photographs provided).
36. The Applicant went to considerable lengths in following through legal action to get the home removed from the site. The Occupier of number 6 passed away in April 2020, and the Applicant eventually had leave to remove the Home on 29 August 2024.
37. The Applicant appointed a professional to deal with the potential rodent issues and a copy of the initial report from the pest controller was provided. The Applicant said that the advice with a program of visits was followed and the pest controller has now removed the pest control boxes as there is no further evidence of rats.

5) Drains

38. The Applicant said that the cause of issues with the drains is the debris which finds its way into the system and has written to Occupiers concerning this (a copy of the letter dated 30 March 2022 was provided).

6) Drain Cover

39. The Applicant said it had no record of the drain cover surround being reported to the Site Manager who has no recollection of it. A loose area of concrete at the end of the pathway in the Home has been repaired (photograph provided). The Applicant added that when the repair was first effected footprints were made in the wet concrete but these were subsequently filled.

Findings

40. The Tribunal has read all statements of case of the parties. In deciding the level of pitch fee, the Tribunal considers the Site not the personal circumstances of the

Respondent, therefore the health of the Respondent is not a relevant consideration. The status of the occupancy of the Respondent is also not a matter that the Tribunal considers. Whether or not the Respondent has been the subject of harassment is not relevant to the Application.

41. The Respondent questioned the pitch fee increase in line with the CPI submitting that any increase should be according to the costs incurred in any one year by the Site Owner. Under paragraph 20 the presumption that the pitch fee will increase in accordance with the CPI unless there are a) improvements or b) deterioration in condition, decreases in amenity or reduction in services or their quality or c) some other matter justifies a rebuttal of the presumption. The pitch fee is standardised so that as the CPI fluctuates, over time the pitch fee should broadly keep pace with inflation. Therefore, under the legislation the pitch fee review is based on the CPI and not the costs incurred in any one year by the Site Owner.

1) *Removal of the Copse*

42. The Tribunal found that the Respondent's view of the copse would have been largely obscured by the park homes on the pitches opposite the Home (which will be replaced) giving a distant view of the tops of the trees some of which remain and can be seen on the skyline. The Tribunal did not find in the present circumstances that there has been a deterioration or decrease in the amenities of the Site.

2) *Leylandii Trees*

43. Regarding the leylandii hedge the Respondent must be aware that the landowner of the adjacent land is entitled to develop it, provided planning permission etc., is obtained. The landowner also is entitled to plant along the boundary. Whereas a fence alone may provide an open aspect nevertheless the Respondent's neighbours and the householders of the Development may prefer the privacy, noise reduction, absorption of excess water and evergreen background afforded by the leylandii hedge.
44. However, the Tribunal agrees with the Respondent that the leylandii hedge should be maintained at no more than 8 feet, if that is what has been agreed. The Tribunal finds that, from the photographs provided by the parties, the hedge does not appear to be unduly high and occasional failings to maintain the height of the hedge would not amount to a deterioration in condition or decrease in the amenities of the Site.

3) *Carriageway Verges*

45. The Tribunal finds that the Applicant has an ongoing programme of maintenance of the carriageway verges and gullies and the annual growth of weeds is not a deterioration in condition or decrease in the amenities of the Site.

4) *Rodent Infestation*

46. The Tribunal finds that on the balance of probabilities the rat infestation was caused by the deterioration of the home and pitch at number 6 which is

diagonally opposite the Home. The Tribunal finds that following the removal of the Home and clearing of the pitch at number 6 the Applicant appointed and followed the advice of a professional to deal with the rodent issues. The Tribunal found that as action was taken to remedy the infestation it did not last for such a time that it amounted to a deterioration in condition or decrease in the amenities of the Site.

5) Drains

47. The Tribunal accepts that the cause of issues with the drains is the debris which finds its way into the system. The Respondent says that periodically there is an offensive smell. As the smell is occasional it may not be evidence on an inspection. A smell emanating from the Site's drains may amount to a deterioration in condition or decrease in the amenities of the Site irrespective of its cause depending upon its intensity and the length of time it persists. However, there is insufficient evidence e.g. in the form of witness statements for the Tribunal to make a finding that there is a deterioration in condition or decrease in the amenity.

6) Drain Cover

48. The drain cover referred to appears to be on the Respondent's pitch and so does not amount to a deterioration in condition or decrease in the amenity of the Site.

Conclusion

49. The Tribunal found that none of the matters raised by the Respondent showed there had been a decrease in amenities or reduction in services under paragraph 18(1) of Chapter 2 of Part 1, such that it would be unreasonable to increase the pitch fee.

Decision

50. 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.
51. Therefore, the Tribunal determined that the new pitch fee for 23 Shangri-La Park is £276.29 per month to take effect on the Review Date on 1 January 2024 to replace the current pitch fee of £265.46 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.