



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

**Case reference** : CAM/12UD/PHI/2014/0014

**Park Home Address** : 29 Osborne Park, Wisbech PE13 3JR

**Applicants** : (1) Tingdene Parks Ltd  
(2) Tingdene Developments Limited

**Respondent** : John Anthony Jacobs and  
Janet Hamilton Jacobs

**Date of Application** : 26<sup>th</sup> June 2014

**Type of application** : to determine a new pitch fee

**The Tribunal** : David S Brown FRICS (Chair)  
Bruce M Edgington (Judge)

**Date of decision** : 29<sup>th</sup> August 2014

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**DECISION**

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**The Tribunal determines that the new pitch fee for the pitch known as 29 Osborne Park, as from 1<sup>st</sup> April 2014, is £1,460.36 per year.**

**REASONS**

**Introduction**

1. The Respondents are the occupiers of the park home at the Park Home Address. They have not agreed to an increase in pitch fees with effect from 1<sup>st</sup> April 2014. The site owner must therefore apply to this Tribunal if it is to obtain an increase in pitch fee. The annual review date for pitch fees is on 1<sup>st</sup> April each year as is set out in the occupation agreement.
2. On 17<sup>th</sup> January 2014 notice of the proposed new pitch fee, in the prescribed form, was served on the Respondent, explaining that as from the 1<sup>st</sup> April 2014 the pitch fee would be increased by 2.7% in line with RPI, in accordance with the Office for National Statistics RPI All Items table.
3. The Tribunal issued a directions Order on the 1<sup>st</sup> July requiring the Respondent to provide a statement of reply to the application by 18<sup>th</sup> July and saying that the Tribunal proposed to deal with this application

by considering the papers only, without a hearing, and would do so on or after 18<sup>th</sup> August unless either party requested an oral hearing which would then be arranged. There has been no communication from the Respondent and no such request for a hearing has been received from either party.

### **The Occupation Agreement**

4. A copy of the written agreement has been produced which seems to comply in all material respects with those terms imposed by the **Mobile Homes Act 1983** ("the 1983 Act") as it was. The only material amendments since have been to give this Tribunal, rather than the court, jurisdiction to deal with the determination of pitch fees if agreement cannot be reached.
5. As far as pitch fees are concerned, the site owner can only increase the pitch fee annually with the agreement of the occupier or, in the absence of agreement, by a determination of the new pitch fee by this Tribunal.
6. There can be an annual review of the pitch fee. The site owner must give the occupant written notice accompanied by a prescribed Pitch Fee Review Form. The Tribunal notes that the prescribed form has been used and the relevant time limits have been complied with in this case.
7. As to the amount of any increase or decrease in the pitch fee, the starting point is that regard shall be had to the RPI. Schedule 1, paragraph 18 of the 1983 Act, which overrides the express provisions, goes further than this by saying that there is a presumption that the pitch fee will change with the RPI.
8. Upon application, the Tribunal has to determine 2 things. Firstly that a change in the pitch fee is reasonable and, if so, it has to determine the new pitch fee. There is no requirement to find that the level of the pitch fee is reasonable.
9. When determining the new pitch fee, Section 18(1)(aa) of the Act, requires that regard shall be had to "*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 sub-paragraph)*". Regard must also be had to other matters, depending on the circumstances, such as specified sums spent on the site by the site owner, any direct effect on the costs payable by the owner in relation to maintenance or improvement of the site of an enactment that has come into force since the last review date.

### **The Applicant's case**

10. The Applicant has provided copies of the pitch fee review notice and the statutory Pitch Fee Review Form, together with an extract from the relevant RPI table, showing an increase in RPI of 2.7% between December 2012 and December 2013.

### **The Respondent's case**

11. Nothing has been received from the Respondents.

### **Site Inspection**

12. As neither party has raised any issues which require an inspection of the site or the pitch, none was arranged in this case.

### **Conclusions**

13. As to whether a change in the pitch fee is reasonable, the Tribunal is conscious of the wording of the 1983 Act that the starting point is a change in line with the RPI.
14. The formalities imposed by the 1983 Act as to the undertaking of a pitch fee review, the service of notice of increase plus statutory information and the time limit for the application to this Tribunal have been complied with.
15. There is no basis for finding that it is unreasonable for the pitch fee to be changed and the Tribunal concludes that the proposed pitch fee increase is reasonable.

*Any party to this Decision may appeal against this Decision with the permission of the Tribunal. The provisions relating to appeals are set out in Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. A request for permission to appeal must be made within 28 days after the date that the Tribunal sends these written reasons for the decision, and must state the grounds of appeal and the result the party making the application is seeking.*

**D.S. Brown FRICS**