FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	CHI/24UB/PHI/2016/0010
Property	:	60a Attwood Close, Basingstoke, Hampshire RG21 8YY
Applicants	:	Basingstoke and Deane Borough Council
Representative	:	Charlotte Peace
Respondents	:	Mr John McKinney and Mrs Elizabeth McKinney
Representative	:	
Type of Application	:	Determination of New Level of Pitch Fee Schedule 1 Mobile Homes Act 2003
Tribunal Member(s)	:	Judge Tildesley OBE
Date and Venue of Hearing	:	Paper determination
Date of Decision	:	16 September 2016

DECISION

Decisions of the Tribunal

1. The Tribunal determines that the proposed increase in pitch fee for 60A Attwood Close is reasonable.

2. The Tribunal determines a pitch fee of £1,737.15 per annum for 60A Attwood Close with effect from 1 April 2016.

The Application

3. On 13 June 2016 Basingstoke and Deane District Council (the Council) applied to the Tribunal for determination of a new level of pitch fee in respect of 60A Attwood Close, Basingstoke with effect from 1 April 2016.

4. The Council proposed a 1.3 per cent increase in the current pitch fee of £1,714.86 per annum which produced a new pitch fee of £1,737.15 per annum.

5. The 1.3 per cent increase corresponded with the percentage increase in the Retail Prices Index (RPI) for the period of 12 months ending January 2016[1].

6. The Council accepted that the Pitch Review Form contained a typographical error referring to the RPI published for January 2015 when it should have said January 2016. The Tribunal did not consider this typographical error fatal to the Application because the Council quoted in the Pitch Review Form the correct percentage increase in the RPI for the period of 12 months ending January 2016.

7. On 28 June 2016 the Tribunal directed the Application to be determined on the papers without an oral hearing unless a party objected within 28 days. No objections were received from the parties.

8. The Respondents failed to send their statement of case to the Council by 19 July 2016 in accordance with Tribunal directions issued on 28 June 2016.

9. The Council supplied the hearing bundle to the Tribunal and to the Respondents on 4 August 2016.

10. On 8 August 2016 Mr McKinney requested an extension of at least 60 days for the submission of his statement of case. His reasons for the request were that he was only given 14 days to prepare his case at the last Tribunal hearing. Also he could not get a Park Home Law Specialist to represent him at short notice.

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[1] When applying the RPI adjustment to a pitch fee review, the figure that must be used is the latest 12 month RPI figure available before the notice of review is served. In this case, the notice of review was sent on 26 February 2016. The latest RPI figure published before 26 February 2016 was the January 2016 figure.

11. The Council objected to Mr McKinney's request on the following grounds:

- On 30 March 2016 Mr McKinney advised the Council that he was objecting to the pitch fee. The Council expressed the view that Mr McKinney had almost four months to make the necessary preparations for the Tribunal.

- Mr McKinney was familiar with the Tribunal process. He represented himself and co-ordinated the response from 32 residents at the Tribunal hearing on 18 February 2016 which determined the pitch fee for April 2015. The Council also asserted that Mr McKinney had told Council officials that he has had frequent advice from a park home specialist on these matters.

- Council officials have held regular conversations with Mr McKinney during the last two months (June and July), and has been away from the site for two weeks.

- According to the Council, Mr McKinney has admitted to Officers that he takes certain actions merely to cause problems for the Council.

12. The Tribunal gave Mr McKinney seven days in which to respond to the Council's submissions. Mr McKinney did not take up the Tribunal's offer.

13. On 7 September 2016 the Tribunal refused Mr McKinney's request for further time to send in a statement of case. The Tribunal was satisfied that Mr McKinney had been given ample time to prepare his statement of case. The Tribunal holds that Mr McKinney understands Tribunal procedures and knows the importance of complying with directions. Mr McKinney did not make his application for extension of time until two week after the deadline for submission of his case. Mr McKinney put forward no reasons why he had not made the application earlier, and gave no persuasive grounds for his application. Mr McKinney has not taken the opportunity to rebut the Council's objections. The Tribunal concluded that Mr McKinney's application was without merit.

Consideration

14. Attwood Close is a protected site within the meaning of the Mobile Homes Act 1983 (the 1983 Act). The definition of a protected site in Part 1 of the Caravan Sites Act 1968 includes a site where a licence would be required under the Caravan Sites and Control of Development Act 1960 if the exemption of local authority sites were omitted.

15. Attwood Close has 67 pitches for mobile homes. The site had been a temporary site for 55 years until 2008 when it became a permanent site under the Town and County Planning legislation.

16. Mr and Mrs McKinney's right to station their mobile home on the pitch at Attwood Close is governed by the terms of their Written Agreement with the Council and the provisions of the 1983 Act.

17. Their written agreement was dated 8 July 2011. Under paragraph 1 of part 4 of the agreement Mr and Mrs McKinney are obliged to pay the pitch fee to the Council monthly in advance. Paragraph 10 states that the pitch fee would is reviewed on 1 April every year. Paragraph 10 also states that the 1 April is the review date.

18. The Council served Mr and Mrs McKinney with the prescribed pitch review form proposing the new pitch fee on 26 February 2016 which was more than 28 days prior to the review date of 1 April 2016. The Application to the Tribunal to determine the pitch fee was made on 13 June 2016 which was within the period starting 28 days to three months after the review date.

19. The Tribunal is satisfied that the Council had complied with the procedural requirements of paragraph 17 of Part 1 of Schedule 1 of the 1983 Act to support an application for an increase in pitch fee in respect of the pitch occupied by Mr and Mrs McKinney.

20. The Tribunal is required to determine whether the proposed increase in pitch fees is reasonable. The amount in issue was £22.29 per annum. The Tribunal is not deciding whether the level of pitch fee is reasonable.

21. The Tribunal is required to have regard to paragraphs 18, 19 and 20 of Part 1 of Schedule 1 of the 1983 Act when determining a new pitch fee. Paragraph 20(1) introduces a presumption that the pitch fee shall increase by a percentage which is no more than any percentage increase or decrease in the RPI since the last review date.

22. The Council has restricted the increase in pitch fee to the percentage increase in the RPI. The Council says that it has continued to manage actively and maintain the site since the last review date of 1 April 2015. During that the time the Council states it has carried out a range of improvements including overhaul of main entrance, installation of ten anchor points, and installation of new hasps and combination padlocks to the electricity meters. The Council also states that it has performed routine maintenance of fire hoses, street lights, jetting of main drain and surface water drains, grounds maintenance as well as repairs to roads, and drains.

23. The previous Tribunal (CHI/24UB/PHC/2015/0006) found at paragraph 33:

"The Tribunal's overall conclusion on the facts found is that Attwood Close is maintained and managed to a reasonable standard. There was no evidence of any deterioration in the condition of site or of a loss of amenity for the mobile home occupiers. The Council Officers were aware of the problems with the site which were not widespread and had plans to deal with them. The Tribunal acknowledges that some of the facilities on the site were dated and more suited to a caravan park. The Tribunal, however, considers that the Council was aware of these drawbacks and were putting in place long term programmes to improve the site as evidenced by the proposal to install a new water distribution network for Attwood Close".

24. The previous Tribunal was held on 18 February 2016. The Tribunal considers it reasonable to assume there has not been a significant change in circumstances regarding the condition and amenities of the site from the last hearing. The Tribunal also notes that this application only involved two occupiers as opposed to 32 occupiers at the February 2016 hearing. The second occupier subsequently agreed to the new pitch fee.

25. Mr and Mrs McKinney made no representations.

Decision

26. Given the above the above circumstances the Tribunal determines that the proposed increase in pitch fee for 60A Attwood Close is reasonable. Further the Tribunal determines a pitch fee of £1,737.15 per annum for 60A Attwood Close with effect from 1 April 2016.

RIGHTS OF APPEAL

27. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

28. 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.

29. 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.

30. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking