



**First-tier Tribunal
Property Chamber
(Residential Property)**

Case reference : CAM/00MF/PHI/2019/0005

Park Home Address : 6 Loddon Court Farm Park, Beech Hill ,
Spencers Wood Reading RG7 1HU

Applicant : Tingdene Parks Ltd

Respondent : Mrs Colman

Date of Application : 18 March 2019

Type of application : to determine the new pitch fee -
paragraph 18 of Schedule 1 to the
Mobile Homes Act 1983, as amended (“the
Act”)

The Tribunal : Mrs M Hardman FRICS IRRV(Hons)
Judge Wayte

DECISION

Crown Copyright ©

1. The Tribunal determines that the new pitch fee for the pitch known as ,
6 Loddon Court Farm Park as from 1 January 2019, is £1643.40.

Reasons

Introduction

2. The Respondents are the occupiers of the park home at the Park Home
Address. They have not agreed to an increase in pitch fees for 2019.
The site owner must therefore apply to this Tribunal if it is to obtain an
increase in pitch fee. There does not appear to be any dispute that the
annual review date for pitch fees is on 1 January 2019 as set out in the
occupation agreement.
3. On the 29th October 2018 notice of the proposed new pitch fee, in the
prescribed form, was served on the respondents, explaining that as
from the 1 January 2019 the pitch fee would be increased by 3.3% in
line with RPI, in accordance with the Office for National Statistics RPI
All Items table.
4. The Tribunal issued a directions Order on 26 March 2019 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 10th May
2019 unless any party requested an oral hearing which would then be
arranged. No such request was received.

The Occupation Agreement

5. A copy of such 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 approval of pitch fees if agreement cannot be reached.

The Law

6. 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.
7. The site owner must give the occupier 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.

8. Paragraph 18(1) of Schedule 1 to the Act provides that when determining the amount of the new pitch fee, regard shall be had to - sums expended by the site owner since the last review date on certain improvements, any deterioration in the condition and any decrease in the amenity of the site or adjoining land occupied or controlled by the site owner since 26th May 2013 (in so far as it has not previously been taken into account), any reduction in services supplied by the site owner or deterioration in the quality of such services since 26th May 2015 (in so far as it has not previously been taken into account), any direct effect on the costs payable by the site owner in relation to the maintenance or management of the site of an enactment which has come into force since the last review date, but no regard shall be had to any costs incurred by the site owner since the last review date for the purpose of complying with the amendment to the Act made by the Mobile Homes Act 2013.

9. Paragraph 19 also excludes from consideration any costs incurred by the site owner in connection with expansion of the site, or in relation to the conduct of proceedings under the Act or the agreement, or fees paid by the site owner under sections 8(1B), 9A to 9I or 9B of the Caravan Sites and Control of Development Act 1960.
10. 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 20 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, unless this would be unreasonable having regard to paragraph 18(1).
11. 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.
12. 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

13. The Applicant relied on pitch fee review forms served on the Respondent dated 29 October 2018. Sections 2 and 3 of these forms stated that the previous review date had been 1 January 2018 and that the new reviewed pitch fee would take effect on 1 January 2019. The Applicant indicates that there have been no changes in the site since the last review. The increase was on the basis of an adjustment of +3.3% in line with the movement in the Retail Prices Index over the 12 months to September 2018.

The Respondent’s case

14. No statement or representations were received from the Respondent.

Site Inspection

15. As neither party has raised any issues which required an inspection of the site or the pitch, none has been arranged in this case.

Conclusions

16. 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.
17. There does not seem to be any dispute that 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 limits for the application to this Tribunal have been complied with. Thus, the Tribunal accepts that they have all been complied with.
18. 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.

Mary E Hardman FRICS IRRV(Hons)

ANNEX - RIGHTS 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.