



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

Case Reference : **CH1/00HT/PHI/2013/0022**

Property : **22 Trowbridge Lodge
West Ashton Road,
Trowbridge
Wiltshire
BA14 6DL**

Applicant : **Redlane Sites Limited & Tingdene
Parks Limited**

Representative : **Ryan & Frost Solicitors**

Respondents : **Mr & Mrs Jones**

Representative :

Type of Application : **Determination of New Level of
Pitch Fee**

Tribunal Members : **Judge Tildesley OBE
Mr J Reichel FRICS**

**Date and venue of
Hearing** : **Determination without oral
hearing on 12 May 2014**

Date of Decision : **30 May 2014**

DECISION

Decision of the Tribunal

- (1) The Tribunal determines a new annual pitch fee of £1,652.59 with effect from 1 October 2013, payable by monthly instalments of £137.72.

The Application

1. On 18 July 2013 the Applicant (the site owner) served on the Respondents by letter Notice of a new pitch fee which was accompanied by a pitch review form in a form compliant with The Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations SI2013/1505.
2. The Respondents did not respond to the Notice despite two reminders.
3. On 12 December 2013 the Applicant applied to the Tribunal to determine a new annual pitch fee of £1,652.59 with effect from 1 October 2013, payable by monthly instalments of £137.72.
4. On 13 December 2013 the Tribunal directed the parties to exchange their evidence and that the application would be determined without an oral hearing unless a party objected within 28 days of receipt of directions. The parties did not object.
5. On 17 February 2014 the Tribunal granted the Applicant's request to extend the time in which to file its response to the Respondents' statement because it had not received a copy of the statement. The Tribunal issued further directions and amended the timetable.
6. On 12 May 2014 the Tribunal determined the matter on the papers. The Tribunal took into account the application and attachments, first and second witness statements of Jeremy Pearson, Operations Director for Tingdene Parks Limited, and the Respondents' statement and attachments received by the Tribunal on 3 February 2014.
7. This application was also joined with two other applications in respect of 19 and 46 Trowbridge Lodge. The mobile home occupiers of these two sites gave their agreement to the new pitch fee which resulted in the withdrawal of the applications.

The Facts

8. The written statement between the parties permitting the Respondents to keep their mobile home on 22 Trowbridge Lodge was dated 2 July 2010. The annual pitch fee was then £1,482.12 with an annual review on 26 September each year. Under the terms of the statement the Applicant made an additional charge for electricity.

9. The Applicant in calculating the new revised pitch fee only had regard to the Retail Prices Index (RPI). As the notice was served on 18 July 2013, the appropriate latest index for the calculation, and the index actually applied, was the index published in June 2013, which showed an increase in the index of 3.3 per cent over the previous 12 months. The current annual pitch fee was £1,599.80 which with a 3.3 per cent increase of £52.79 produced the new pitch fee of £1,652.59.
10. The Respondents did not challenge the accuracy of the RPI calculation.
11. Their dispute with the Applicant concerned the following issues:
 - There was no fixed pitch fee for the site which meant that many mobile home occupiers were paying lower pitch fees than the Respondents for the same facilities. The Respondent considered the inconsistencies in the amounts of the annual pitch fee paid by the mobile home occupiers unfair.
 - Since moving into their new mobile home in 2010, the Respondents have reported major problems with standing water outside their home. The Respondents considered this problem was caused by an inadequate drain-away for surface water.
 - The presence of major potholes on the park roads.
 - The Respondents stated that the site suffered from poor lighting. They also said that the Applicant cut down the height of the lights to avoid hiring out a cherry picker which the Respondents believed had exacerbated the problem of poor lighting.
12. The Applicant in response accepted that the Respondents paid a higher pitch fee than other residents on the park. The Applicant also said there were three residents who paid the same pitch fee as the Respondents, and seven residents who paid a higher one. In the Applicant's view the variation in pitch fees across the site was not a ground for opposing the new pitch fee. The Applicant asserted the Respondents knew at the time they entered the agreement there was no uniformity of fees across the site¹. Further the Respondents were not now entitled to question the initial pitch fee and wench on their original agreement. The Applicant pointed out that the initial pitch fee formed the reference point from which the first and subsequent pitch reviews were assessed.

¹ See correspondence dated 28 April 2010 from Louise Boyle, Applicant's Administration Manager, which stated there was no requirement for uniformity of pitch fees across the park and each resident had an individual agreement between themselves and the company.

13. The Applicant also accepted that when there was heavy rainfall, puddles of water formed in the park including on the park roads and that the water may take time to dissipate. The Applicant said that it was addressing this problem as part of its ongoing maintenance programme, and that it had frequent dialogue with the residents association about the installation of soakaways. The Applicant acknowledged that the photographs supplied by the Respondents showed the presence of sizeable puddles of water on the park roads but considered that the puddles did not prevent the Respondents from gaining access to their home. Mr Pearson also pointed out that he believed that this was the first time the Respondents had complained about their home being affected by the presence of surface water on the roads. Mr Pearson supplied details of six occasions in the period from 28 September 2012 to 7 February 2014 when the Applicant had undertaken work on repairing potholes on the park.
14. The Applicant did not accept what the Respondents said about street lighting on the park. In 2011 the Applicant decided to replace the street lighting on all its parks. The installation of lower street lighting meant that the Applicant was able to respond more quickly to malfunctioning lights. The new lights also reduced the risks to health and safety of employees and contractors. Mr Pearson could not recall any complaints from either the residents association or individual residents about the changes to the street lighting. Mr Pearson considered there had been no overall reduction in the quality of the lighting in the site as result of the new installation. Mr Pearson also pointed out that some-one had affixed tape to the street light immediately outside number 22, which had not been done by the Applicant or at its direction.

Reasons

15. The right of the Applicant to change a pitch fee is authorised by the terms implied by Chapter 2 of Part 1 of schedule 1 of the Mobile Home Act 1983 to all agreements which relate to a pitch for a mobile home.
16. Paragraph 16 of Chapter 2 of Schedule 1 of 1983 provides that a pitch fee may be changed only with the agreement of the mobile home owner or by a determination of the Tribunal on application.
17. Paragraph 17(1) stipulates that the pitch fee shall be renewed annually on the review date. Paragraph 17(2) requires the site owner to give the mobile home occupier written notice in a prescribed form of the proposed change in the pitch fee at least 28 clear days before the review date. In this case the Applicant served written notice in the prescribed form on the 18 July 2013 which was about ten weeks before the review date.
18. Under paragraph 20 unless it would be unreasonable having regard to paragraph 18 (1) there is 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 retail prices index calculated by reference only to the latest index and the index published for the month which was 12 months before that to which the latest index relates.

19. The Tribunal finds the increase proposed by the Applicant to the pitch fee was no more than the percentage increase in the RPI in the 12 months preceding the written notice.
20. The issue for the Tribunal is whether the increase proposed by the Applicant was unreasonable having regard to the wording of paragraph 18(1) to schedule 1.
21. Paragraph 18(1) sets out a range of circumstances which may justify an increase or decrease in the pitch fee. The sets of circumstances dealing with improvements to the site and any reduction in services provided by the Applicant were not relevant to this application. The only set of circumstances that may be relevant related to any deterioration in the condition or the amenity of the site since 26 May 2013.
22. The Respondents complained about the ongoing problems with surface water and the presence of pot holes on the site, and the poor lighting associated with the change in the height of the lights. The Applicant accepted that the surface water was an ongoing problem which it was addressing together with the pot holes. The Applicants did not accept the replacement of lighting had created any loss of amenity in respect of the standard of lighting.
23. The Tribunal is not satisfied that the Respondents had established there had been deterioration in the condition and or the amenity of the site since 26 May 2013. The Respondents' evidence taken at its highest suggested the issues of surface water and potholes were ongoing problems which had been present prior to 26 May 2013. Likewise the new street lighting was installed in April 2011 when if there had been a decrease in amenity it would have occurred then, well before the date of 26 May 2013.
24. The Tribunal is, however, not convinced that the Applicants were ignoring the problems of surface water and potholes. The Tribunal finds on the evidence that the Applicant was addressing these problems as part of its ongoing maintenance. The Tribunal also prefers the Applicant's evidence that the change in the height of the street lamps has not resulted in a significant drop on the quality of the lighting.
25. The Tribunal does not consider the lack of uniformity of pitch fees on the site rendered an increase in the pitch fee which corresponds with the increase in the RPI unreasonable. The Respondents were aware of the lack of uniformity when they agreed to pay the original pitch fee which formed the reference point for subsequent reviews of the pitch fees. The Tribunal has no power to interfere with an agreement freely entered into by the parties.

Determination

26. For the reasons given above, the Tribunal finds that the proposed increase in the pitch fee which was no more than the percentage increase in the RPI was reasonable.
27. The Tribunal, therefore, determines **a new annual pitch fee of £1,652.59 for 22 Trowbridge Lodge with effect from 1 October 2013, payable by monthly instalments of £137.72.** The Respondents shall not be treated to be in arrears with the new pitch fee until the 28th day after the date of this decision.

RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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