



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

- Case Reference** : (1) **MAN/00FB/PHI/2016/0009-19**
(2) **MAN/00FB/PHI/2016/0020-35**
(3) **MAN/00FB/PHI/2016/0036-59**
- Property** : (1) **Woldgate Caravan Site, Bridlington YO16 4XE**
(2) **Eppleworth Caravan Site, Skidby HU16 5YJ**
(3) **Woodhill Way Travellers Site,
Cottingham HU16 5SX**
- Applicant** : **The East Riding of Yorkshire Council**
- Respondents** : (1) **See Annex 1**
(2) **See Annex 2**
(3) **See Annex 3**
- Type of Application** : **For determination of pitch fee under schedule 1,
Mobile Homes Act 1983**
- Tribunal** : **A M Davies, LLB**
P E Mountain, FRICS
- Date of Decision** : **19 October 2016**

DECISION

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DECISION

1. With effect from 1 April 2016 the pitch fee payable for each pitch at Woldgate Caravan Site and Eppleworth Caravan Site shall be £104.34 per week.
2. With effect from 1 April 2016 the pitch fee payable at Woodhill Way Travellers Site shall be £102.33 per week for each of pitch numbers 4, 15 and 16 (previously £101 per week) and £67.88 per week for each of the remaining pitches (previously £67 per week).

REASONS

BACKGROUND

1. The three sites to which this decision relates are gypsy or traveller sites, the management of which is subject to Chapter 4 of Part 1, Schedule 1 to the Mobile Homes Act 1983 as amended (“Chapter 4”).
2. The sites are owned and managed by the Applicant, which issued to each Respondent a Written Statement in identical form save for the pitch description and the pitch fee payable. The pitches at Woldgate and Eppleworth and three of the pitches at Woodhill Way were subject to a higher or double pitch fee whereas the occupiers of the remaining Woodhill Way pitches were to pay a lower “single” pitch fee. The pitch fee review date for every pitch is 1st April.
3. The Written Statements do not provide for any payment for services save that each occupier has to contribute £2.29 per week for the supply of water, and to pay for electricity to his pitch as metered.
4. Prior to April 2015 the Applicant issued notices increasing the pitch fees payable at Woldgate and Eppleworth. The increases were accepted by the occupiers of those sites, with the result that as at February 2016 each of them was paying a pitch fee of £103 per week.
5. In February 2016 when notices of increase were served on the occupiers of Woodhill Way, the three occupiers of the larger pitches there were paying a pitch fee of £101 per week, and the remainder were paying £67 per week.
6. In February 2016 the Applicant served notice of increase of pitch fee on all the Respondents, advising that they were each to pay a pitch fee of £105 per week with effect from 1 April 2016. The initial notice served on occupiers of Woodhill Way was incorrect – but not as to the amount of the increased pitch fee or the review date - and another notice was served on 16 March 2016. The Respondents did not take any point on this and the Tribunal has proceeded on the basis that the pitch fees it determines are to take effect from 1st April 2016.
7. The Respondents objected to the proposed increase, and in June 2016 the Applicant applied to this Tribunal for a determination of the pitch fees on each site. Directions were given for the three applications to be heard together.

8. A hearing took place in Hull on 19 October 2016, at which the Applicant was represented by its solicitor Mr King and the Respondents were represented by Mrs Worrell of Outreach ER CIC, an organisation that has been assisting the occupiers of the sites generally.
9. In response to preliminary points raised by the Applicant, it was determined that
 - (a) a statement of Mr S Dove served very late on behalf of the Council would be accepted by the Tribunal, as Mrs Worrell had no objection;
 - (b) Mrs Worrell was entitled to speak for the Respondents, none of whom were otherwise present or represented; and
 - (c) that the adult grand-daughter of one of the Respondents from Woodhill Way was entitled to be present, the hearing being a public one, and to provide information from her own knowledge if that would assist the Tribunal during the hearing.

THE LAW

10. The procedure for increasing pitch fees on the appropriate review date is set out at paragraphs 14 to 18 of Chapter 4, which so far as relevant read:
 14. *The pitch fee can only be changed in accordance with paragraph 15, either –*
 - (a) *with the agreement of the occupier, or*
 - (b) *if the tribunal, on the application of the owner or the occupier, considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee.*
 15. (1) *The pitch fee will be reviewed annually as at the review date.....*
 - (5) *If the occupier does not agree to the proposed new pitch fee*
 - (a) *the owner may apply to the court for an order under paragraph 14(b) determining the amount of the new pitch fee.....*
 16. (1) *When determining the amount of the new pitch fee particular regard must be had to –*
 - (a) *any sums expended by the owner since the last review date on improvements –*
 - (i) *which are for the benefit of the occupiers of mobile homes on the protected site;*
 - (ii) *which were the subject of consultation in accordance with paragraph 20(f); and*
 - (iii) *to which a majority of the occupiers have not disagreed in writing.....*

18. (1) *There is a presumption that the pitch fee will increase or decrease by a percentage which is no more than any percentage increase or decrease in the retail prices index since the last review date, unless this would be unreasonable having regard to paragraph 16(1).....”*
11. Paragraph 20(f) reads:
*“The owner must.....
consult the occupier about improvements to the protected site in general, and in particular about those which the owner wishes to be taken into account when determining the amount of any new pitch fee.”*
12. Further, paragraph 22(a) provides:
“For the purposes of paragraph 20(f), to “consult” the occupier means
(a) to give the occupier at least 28 clear days’ notice in writing of the proposed improvements which –
(i) describes the proposed improvements and how they will benefit the occupier in the long and short term;
(ii) details how the pitch fee may be affected when it is next reviewed.....”

THE APPLICANT’S CASE

13. The Applicant was either unaware of the relevant legislation, or hoped that the East Riding of Yorkshire Council might be exempt from following Chapter 4 procedures. It proposed that the (unspecified) cost of all work to the Woodhill Way site that was carried out between September 2014 and May 2015 should be paid for by increasing and equalising the pitch fees payable by the occupiers of all three sites, with the result that from 1 April 2016 every occupier would pay a standard pitch fee of £105, together with the agreed payments for water and electricity.

WOLDGATE AND EPPLEWORTH

14. At the hearing Mr King accepted that the RPI increase for the year prior to service of notice of pitch fee increases was 1.3%, although the Applicant’s case stated that 1% was the appropriate figure. The Respondents agreed that 1.3% was the correct percentage to be applied.
15. Mr King also accepted that the Applicant had no grounds on which to claim any higher increase in pitch fee from occupants of the Woldgate and Eppleworth sites, no expenditure on improvements to those sites having been incurred by the Applicant since the last review date. He calculated at the hearing that applying 1.3% to the existing pitch fees (£103) resulted in a new pitch fee of £104.34.

WOODHILL WAY

16. The Applicant provided 4 full lever arch files of papers to the Tribunal, almost all of which were duplications and should have been omitted. Information relevant to the application was, however, sadly lacking. Mr King and other representatives of the Applicant attending the hearing were unable to confirm to the Tribunal
 - a) the cost of improvements to Woodhill Way
 - b) whether improvements to paving, street lighting and drainage of the access road were inside or outside the boundaries of the site, or
 - c) of a long list of works undertaken, which were claimed to be improvements and which were replacements, repairs or maintenance. However Mr King agreed that some of the items listed were clearly not properly classified as improvements.
17. Mr King claimed that the cost of improvements undertaken since pitch fees were last reviewed could be taken into account. He accepted at the prompting of the Tribunal that the improvements to which the Tribunal should have "*particular regard*" were limited by paragraphs 16(a) and 29 to those that had taken place since 1 April 2015, the last review date. The Applicant was not able to say what improvements to Woodhill Way (if any) had taken place since that date.
18. Further, the Applicant accepted at the hearing that there had been no effective consultation with the Respondents regarding proposed improvements at Woodhill Way, because it had not supplied them with any details as to how the pitch fee would be affected by the improvements, as required by paragraph 22(a) (ii) of Chapter 4.
19. It follows that the Applicant failed to make any case for increasing pitch fees at Woodhill Way as it had proposed to the occupiers. The Tribunal has applied the RPI increase of 1.3% to the occupiers of the three pitches at that site who were paying £101 per week, and the same percentage increase to the remainder of the occupiers, who were paying £67 per week.

ANNEX 1

Respondents at Woldgate Caravan Site

Name	Pitch Number	Our reference
Pauline Loveridge	3	MAN/00FB/PHI/2016/0009
Edith Smith	5	MAN/00FB/PHI/2016/0010
Ben Johnson	6	MAN/00FB/PHI/2016/0011
George Smith	7	MAN/00FB/PHI/2016/0012
Louise Smith	8	MAN/00FB/PHI/2016/0013
Margaret & Frankie Smith	9	MAN/00FB/PHI/2016/0014
Rosie Loveridge	10	MAN/00FB/PHI/2016/0015
Manderline Smith	14	MAN/00FB/PHI/2016/0016
Pauline Harrison	15	MAN/00FB/PHI/2016/0017
Rosemary & Jobie Parker	21	MAN/00FB/PHI/2016/0018
Jack Smith	22	MAN/00FB/PHI/2016/0019

ANNEX 2

Respondents at Eppleworth Caravan Site

Name	Pitch Number	Our reference
Christine Smith	3	MAN/00FB/PHI/2016/0020
Norman & Rosemary Smith	4	MAN/00FB/PHI/2016/0021
Brenda Smith	5	MAN/00FB/PHI/2016/0022
Lisa Smith	6	MAN/00FB/PHI/2016/0023
Samantha Smith	7	MAN/00FB/PHI/2016/0024
Lyndsey Allen	8	MAN/00FB/PHI/2016/0025
Angela Smith	10	MAN/00FB/PHI/2016/0026
Becky Smith	11	MAN/00FB/PHI/2016/0027
Philip Smith	12	MAN/00FB/PHI/2016/0028
Jenna Smith	13	MAN/00FB/PHI/2016/0029
Stephen Smith	14	MAN/00FB/PHI/2016/0030
Susan Smith	15	MAN/00FB/PHI/2016/0031
Julie Smith	16	MAN/00FB/PHI/2016/0032
Mandy Smith	17	MAN/00FB/PHI/2016/0033
Martin & Lyndsey Smith	19	MAN/00FB/PHI/2016/0034
Doug Smith	20	MAN/00FB/PHI/2016/0035

ANNEX 3

Respondents at Woodhill Way Travellers Site

Name	Pitch Number	Our reference
Peter Smith	1	MAN/00FB/PHI/2016/0036
Geordie Lee	2	MAN/00FB/PHI/2016/0037
Vera Lee	3	MAN/00FB/PHI/2016/0038
Brian & Margaret Smith	4	MAN/00FB/PHI/2016/0039
Paul & Michelle Smith	5	MAN/00FB/PHI/2016/0040
Louise Lee	6	MAN/00FB/PHI/2016/0041
Sylvia Smith	7	MAN/00FB/PHI/2016/0042
Kay Smith	8	MAN/00FB/PHI/2016/0043
Kevin & Lillian Smith	9	MAN/00FB/PHI/2016/0044
Arthur & Beryl Smith	10	MAN/00FB/PHI/2016/0045
Edward & Valerie Smith	11	MAN/00FB/PHI/2016/0046
Catherine Smith	12	MAN/00FB/PHI/2016/0047
Walter & Linda Smith	13	MAN/00FB/PHI/2016/0048
Kelly Smith	14	MAN/00FB/PHI/2016/0049
Paula Smith	15	MAN/00FB/PHI/2016/0050
Dennis Smith	16	MAN/00FB/PHI/2016/0051
Mary Smith	17	MAN/00FB/PHI/2016/0052
Elvis & Gillian Smith	18	MAN/00FB/PHI/2016/0053
Shirley Smith	19	MAN/00FB/PHI/2016/0054
William Smith	20	MAN/00FB/PHI/2016/0055
Julie Smith	21	MAN/00FB/PHI/2016/0056
Stephen & Megan Smith	22	MAN/00FB/PHI/2016/0057
Simon & Rosetta Smith	23	MAN/00FB/PHI/2016/0058
Diane Smith	24	MAN/00FB/PHI/2016/0059