



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

**Case Reference** : CHI/00HH/PHI/2019/0099

**Property** : 23 Rosewarne Park, Higher Enys Road,  
Cambourne, Cornwall TR14 0AG

**Applicants** : The Berkeley Leisure Group Limited

**Representative** : Tozers LLP

**Respondents** : Mrs Jennie Massey

**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** : Determination on Papers

**Date of Decision** : 9 July 2019

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DECISION

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## **Decisions of the Tribunal**

1. The Tribunal determines that the proposed increase in pitch fee for 23 Rosewarne Park is reasonable.
2. The Tribunal determines a pitch fee of £127.75 per month for 23 Rosewarne Park with effect from 1 January 2019.
3. The Tribunal is minded to order the Respondent to reimburse the Applicant the Tribunal application fee of £20. This order will take effect unless the Respondent makes representations in writing to the Tribunal on why she should not reimburse the fee by 23 July 2019.

## **The Application**

4. On 22 March 2019 the Applicant applied to the Tribunal for determination of a new level of pitch fee in respect of 23 Rosewarne Park with effect from 1 January 2019.
5. The Applicant proposed a 3.3 per cent increase in the current pitch fee of £123.67 per month which produced a new pitch fee of £127.75 per MONTH.
6. The 3.3 per cent increase corresponded with the percentage increase in the Retail Prices Index (RPI) for the period of 12 months ending October 2018<sup>1</sup>.
7. On 15 May 2019 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 Respondent failed to send her statement of case to the Applicant by 5 June 2019 in accordance with Tribunal directions issued on 15 May 2019.
9. The Applicant supplied the hearing bundle to the Tribunal and to the Respondent on 25 June 2019.

## **Consideration**

10. Rosewarne Park is a protected site within the meaning of the Mobile Homes Act 1983 (the 1983 Act).

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<sup>1</sup> 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 16 November 2018. The latest RPI figure published before 16 November 2018 October 2018 figure.

11. The Respondent's right to station her mobile home on the pitch at Rosewarne Park is governed by the terms of the Written Agreement with the Applicant and the provisions of the 1983 Act.
12. The written agreement is dated 1 May 2004 and assigned to the Respondent on 17 January 2015.
13. Under paragraph 3 of part 4 of the agreement the Respondent is obliged to pay to the Applicant an annual pitch fee by equal monthly payments in advance on the first day of each month. Paragraph 7 states that the pitch fee would be reviewed on 1 January every year.
14. The Applicant served the Respondent with the prescribed pitch review form proposing the new pitch fee on 16 November 2018 which was more than 28 days prior to the review date of 1 January 2019. The Application to the Tribunal to determine the pitch fee was made on 22 March 2019 which was within the period starting 28 days to three months after the review date.
15. The Tribunal is satisfied that the Applicant 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 the Respondent.
16. The Tribunal is required to determine whether the proposed increase in pitch fee is reasonable. The Tribunal is not deciding whether the level of pitch fee is reasonable.
17. 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.
18. The Applicant has restricted the increase in pitch fee to the percentage increase in the RPI.
19. The Respondent made no representations.

## **Decision**

20. Given the above the above circumstances the Tribunal determines that the proposed increase in pitch fee for 23 Rosewarne Park is reasonable. Further the Tribunal determines a pitch fee of £127.75 per month for 23 Rosewarne Park with effect from 1 January 2019.
21. The Tribunal is minded to order the Respondent to reimburse the Applicant the Tribunal application fee of £20. This order will take effect unless the Respondent makes representations in writing to the Tribunal on why she should not reimburse the fee by 23 July 2019.

### **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.