



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

Case References : **BIR/44UE/PHI/2019/0018 to 39, 42 - 44**

Properties : **Various properties situated at
Oversley Mill Park, Oversley Green,
Alcester, Warwickshire, B49 6LL
(See attached Schedule)**

Applicant : **Mrs L Loveridge**

Representative : **SME Solicitors**

Respondents : **See attached Schedule**

Type of Application : **Application by site owner for a
determination of a new level of pitch fee,
under paragraph 16 of Chapter 2 of Part 1
of Schedule 1 to the Mobile Homes Act
1983**

Tribunal Members : **Judge M K Gandham
Mrs S Hopkins FRICS**

**Date and venue of
Hearing** : **Paper determination**

Date of Decision : **23 April 2020**

DECISION

© CROWN COPYRIGHT 2020

Decision

1. The Tribunal determines that the pitch fees notices, dated 1st March 2019, for the following properties at Oversley Mill Park are invalid and of no effect. As such, on 1st April 2019 the pitch fee for these properties remained as follows:

No. 2A	- pitch fee remained at £128.23 per month
No. 6	- pitch fee remained at £117.52 per month
No. 16	- pitch fee remained at £117.52 per month
No. 23	- pitch fee remained at £118.21 per month
No. 31	- pitch fee remained at £117.52 per month
No. 35	- pitch fee remained at £128.23 per month
No. 37	- pitch fee remained at £128.23 per month
No. 41	- pitch fee remained at £117.52 per month
No. 44	- pitch fee remained at £128.23 per month
No. 46	- pitch fee remained at £114.58 per month
No. 49A	- pitch fee remained at £128.23 per month
No. 67	- pitch fee remained at £133.36 per month

2. The Tribunal determines that the pitch fees for the following properties at Oversley Mill Park shall be increased from 1st April 2019 as follows:

No. 15	- from £133.36 per month to £136.69 per month
No. 18	- from £122.22 per month to £125.28 per month
No. 20	- from £122.22 per month to £125.28 per month
No. 22	- from £122.22 per month to £125.28 per month
No. 28	- from £122.22 per month to £125.28 per month
No. 32	- from £122.22 per month to £125.28 per month
No. 33	- from £122.22 per month to £125.28 per month
No. 38	- from £122.22 per month to £125.28 per month
No. 43	- from £122.22 per month to £125.28 per month
No. 49	- from £133.36 per month to £136.69 per month
No. 53	- from £122.22 per month to £125.28 per month
No. 66	- from £133.36 per month to £136.69 per month
No. 68	- from £122.22 per month to £125.28 per month

Reasons for Decision

Introduction

3. By Applications received by the Tribunal on 28th June 2019, Mrs Lesa Loveridge ('the Applicant'), applied to the First-tier Tribunal, Property Chamber under paragraph 16 of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (as amended) ('the Act') for the determination of a new level of pitch fee.

4. The Applications were in respect of the properties known as No. 2A, No. 6, No. 15, No. 16, No. 18, No. 20, No. 22, No. 23, No. 28, No. 31, No. 32, No. 33, No. 35, No. 37, No. 38, No. 41, No. 43, No. 44, No. 46, No. 49, No. 49A, No. 53, No. 66, No. 67 and No. 68 Oversley Mill Park ('the Properties'), all of which are situate in Oversley Mill Park ('the Site'), a mobile home site located on Mill Lane in Oversley Green, Alcester, Warwickshire. Applications against No. 1, No. 58 and No. 63 Oversley Mill Park were withdrawn.
5. On 1st March 2019, the Applicant had sent a notice to each of the Respondents detailing a proposed increase in the pitch fee for the Properties. The increase was to take effect from 1st April 2019. As the Respondents failed to pay the increased pitch fee, the Applicant applied to the Tribunal for a determination of the new pitch fee under paragraph 17(4)(a) of Chapter 2 of Part 1 of Schedule 1 to the Act. The Applicant had supplied, with the applications, a copy of the written statement for each of the Properties, together with a template of the Pitch Fee Review Form sent to each of the Respondents (as the Applicant had not retained copies of the originals).
6. The Tribunal issued a Directions Order, on 17th July 2019, in respect of all of the Properties. The Order confirmed that, although separate applications had been received in relation to each property, as they were in the same form and related to the same issues, the Tribunal intended to determine them together.
7. A statement was received from the each of the parties in relation to their respective cases, the Oversley Mill Park Residents' Association (OMPRA) responding on behalf of all of the Respondents other than Plot 46 (the Estate of the late Mrs Stokes) from whom no response was received. A Reply was received from the Applicant to the Respondents' statement and a response to this reply was received from Mr Owens, the chairman of the OMPRA, on behalf of the Respondents. An inspection was carried out on 28th October 2019.
8. As an issue was raised in the statements regarding whether the April 2018 pitch fee was agreed, the Tribunal issued a further Directions Order on 1st November 2019. The Directions Order required each of the Respondents to provide information regarding the amount of their pitch fee on 1st March 2019, the date upon which such payment had commenced, information regarding their review date and whether they agreed with the information provided in the notice served upon them by the Applicant.
9. Upon receipt of the replies from the Respondents, the Applicant was asked to confirm whether the figures provided by each of the Respondents was correct and, if not, to provide documentary evidence of what the Applicant considered the correct figure to be. The Applicant provided the said information, together with copy records detailing the amount of the monthly pitch fees paid by each of the Respondents.

10. As neither party requested an oral hearing, the Tribunal determined the matters in issue on the papers submitted.

The Issues

11. The issues raised by the Respondents which were pertinent to the matter were as follows:
 - a) the validity of the notices;
 - b) the maintenance of the Site roads;
 - c) the maintenance of the sewerage system;
 - d) the maintenance of the lighting;
 - e) the maintenance of the trees; and
 - f) the expenditure on the Site.

The Law

12. The relevant law in relation to the application is set out in Chapter 2 of Schedule 1 to the Mobile Homes Act 1983 (as amended), in particular, paragraphs 16 to 20 inclusive and paragraph 25A. Subsequent references in this decision to paragraphs 16 to 20 and paragraph 25A are references to this Chapter of this Schedule. The relevant provisions of the legislation that apply to this decision given the issues raised are as follows:

Mobile Homes Act 1983, Chapter 2 Schedule 1

17

(1) The pitch fee shall be reviewed annually as at the review date.

(2) At least 28 clear days before the review date the owner shall serve on the occupier a written notice setting out his proposals in respect of the new pitch fee.

(2A) In the case of a protected site in England, a notice under subparagraph (2) which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 25A.

(3) If the occupier agrees to the proposed new pitch fee, it shall be payable as from the review date.

(4) If the occupier does not agree to the proposed new pitch fee—

(a) the owner or (in the case of a protected site in England) the occupier may apply to the appropriate judicial body for an order under paragraph 16(b) determining the amount of the new pitch fee;

(b) the occupier shall continue to pay the current pitch fee to the

owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by the appropriate judicial body under paragraph 16(b); and

- (c) the new pitch fee shall be payable as from the review date but the occupier shall not be treated as being in arrears until the 28th day after the date on which the new pitch fee is agreed or, as the case may be, the 28th day after the date of the appropriate judicial body's order determining the amount of the new pitch fee.*

(5) An application under sub-paragraph (4)(a) may be made at any time after the end of the period of 28 days beginning with the review date but, in the case of an application in relation to a protected site in England, no later than three months after the review date.

...

18

(1) When determining the amount of the new pitch fee particular regard shall 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 22(e) and (f) below; and*

- (iii) to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the appropriate judicial body on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;*

- (aa) in the case of a protected site in England, 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);*

- (ab) in the case of a protected site in England, any reduction in the services that the owner supplies to the site, pitch or mobile home, and any deterioration in the quality of those services, since the date on which this paragraph came into force (in so*

far as regard has not previously been had to that reduction or deterioration for the purposes of this sub-paragraph);

...

20

(A1) In the case of a protected site in England, unless this 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—

- (a) the latest index, and*
- (b) the index published for the month which was 12 months before that to which the latest index relates.*

(A2) In sub-paragraph (A1), “the latest index”—

- (a) in a case where the owner serves a notice under paragraph 17(2), means the last index published before the day on which that notice is served;*
- (b) in a case where the owner serves a notice under paragraph 17(6), means the last index published before the day by which the owner was required to serve a notice under paragraph 17(2).*

...

25A

(1) The document referred to in paragraph 17(2A) ... must—

- (a) be in such form as the Secretary of State may by regulations prescribe,*
- (b) specify any percentage increase or decrease in the retail prices index calculated in accordance with paragraph 20(A1),*
- (c) explain the effect of paragraph 17,*
- (d) specify the matters to which the amount proposed for the new pitch fee is attributable,*
- (e) refer to the occupier’s obligations in paragraph 21(c) to (e) and the owner’s obligations in paragraph 22(c) and (d), and*
- (f) refer to the owner’s obligations in paragraph 22(e) and (f) (as glossed by paragraphs 24 and 25).*

...

Inspection

13. The Tribunal inspected the Site on the morning of 28th October 2019 in the presence of the Applicant and, on behalf of the Respondents, Mrs Allcott (No. 2A) and Mr Pratty (No. 35).
14. Oversley Mill Park is a mobile home site located on Mill Lane, lying adjacent to the River Arrow, on the outskirts of Alcester. At the time of the inspection the Site housed 67 mobile homes but had planning permission for 69 homes.
15. The Tribunal inspected the relevant common parts of the Site and unoccupied plots referred to in the submissions. The Respondents pointed out to the Tribunal various items on the Site, which they had referred to in the bundles - including the general state of the roads, the parking areas, the access path between numbers No. 22, No. 24 and No. 26 ('the Access Path'), the lighting and the trees.
16. The Tribunal noted that the roads were single track with no kerb edges. The Site was sloping and there was no drainage; however, other than some general wear and tear, the roads were in a fair condition. There was evidence of patching in some areas.
17. Although it had been raining heavily the days prior to the Inspection, the Tribunal did not note any flooding in the parking area or in the Access Path.
18. The Tribunal viewed the lighting at the Site, including the lamp outside No. 51 and the new lighting installed by the riverbank. The Tribunal also viewed the site of the sewerage pump outside No. 45 and the site of the new sewerage pump outside No. 2A. There was no evidence of raw sewage in any part of the Site.
19. The tree outside No. 39 had been been trimmed by the time of the Inspection. The garden of No.63, an unoccupied pitch as the previous owner was deceased, was overgrown and one of the fences had blown out. There was also an overgrown willow tree at the rear of the pitch, close to the river bank, whose branches overhung the public pathway.

Submissions

Validity of the Notices

20. The Applicant confirmed, in her Witness Statement, that she had purchased the Site in April 2011. She stated that pitch fee reviews had taken place in April every year, other than in 2017, when they took place in June. She stated that this was also the case for No. 67, although the written statement for the plot detailed the review date as in March, and for No. 49A, although the written statement for the plot did not detail a pitch review date.

21. In her Witness Statement, the Applicant stated that a pitch fee increase took place in April 2018 and, in accordance with the 4% increase in RPI for January 2018, the monthly pitch fee for double units was increased to £133.36 and for single units to £122.22. In April 2019, the Applicant stated that the pitch fee increase detailed in the notices was in accordance with the 2.5% increase in RPI for January 2019. The monthly fee for double units was increased to £136.69 and for single units to £125.28.
22. In Section 4 of the application forms, the Applicant had indicated that the review on 1st April 2018 was by agreement. She later clarified, in her Reply to the Respondents' Statement, that the April 2018 pitch fee increase was by 'agreement' "*in so far as it was not by Court or Tribunal which are the other options given on the application form*".
23. The Applicant stated that each of the applications included a template of the Pitch Fee Review Form that was sent each of the Respondents.
24. In their Statement, the Respondents submitted that section 4 of the application form was incorrect as the last review, on 1st April 2018, was not by agreement. They stated that some of the Respondents did not accept the increase and that no application had been made by the Applicant to the Tribunal in respect of the same.
25. The Tribunal received the following submissions regarding the individual properties:

No. 2A Oversley Mill Park
26. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £133.36.
27. Mrs Allcott stated that the information provided in the Pitch Fee Review Form served upon her by the Applicant was incorrect. She stated that she had not agreed to the increase on 1st April 2018. She stated that on 1st March 2019 she was paying a figure of £128.23 per month for the pitch and that she had commenced making payments of this amount on 1st April 2017. She stated that the review date of 1st April was correct.
28. The Applicant confirmed that a monthly figure of £128.23 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st June 2017.

No. 6 Oversley Mill Park
29. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
30. Mrs Pittaway stated that the information provided in the Pitch Fee Review Form served upon her by the Applicant was incorrect. She stated that she had not agreed to the increase on 1st April 2018. She stated that on 1st

March 2019 she was paying a figure of £117.52 per month for the pitch and that she had commenced making payments of this amount on 1st April 2017. She stated that the review date of 1st April was correct.

31. The Applicant confirmed that a monthly figure of £117.52 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st June 2017.

No. 15 Oversley Mill Park

32. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £133.36.
33. Mr and Mrs Fackrell stated that the information provided in the Pitch Fee Review Form served upon them by the Applicant was correct. They stated that on 1st March 2019 they were paying a figure of £133.36 per month for the pitch and that they had commenced making payments of this amount on 1st April 2018. They stated that the review date of 1st April was correct but that they had not agreed to the proposed increase on 1st April 2019.
34. The Applicant confirmed that a monthly figure of £133.36 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st August 2018.

No. 16 Oversley Mill Park

35. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
36. Mrs Simmons stated that she had mislaid the information provided in the Pitch Fee Review Form served upon her by the Applicant but that she had not agreed to the increase on 1st April 2018. She stated that on 1st March 2019 she was paying a figure of £117.52 per month for the pitch and that she had commenced making payments of this amount on 1st June 2017. She stated that the review date of 1st April was correct.
37. The Applicant confirmed that a monthly figure of £117.52 was being paid on 1st March 2019 and that the monthly payments for this amount had commenced on 1st June 2017.

No. 18 Oversley Mill Park

38. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
39. Mrs Butcher stated that the information provided in the Pitch Fee Review Form served upon her by the Applicant was correct. She stated that on 1st March 2019 she was paying a figure of £122.22 per month for the pitch and that she had commenced making payments of this amount in July

2018. She stated that the review date of 1st April was correct but that she had not agreed to the proposed increase on 1st April 2019.

40. The Applicant confirmed that a monthly figure of £122.22 was being paid on 1st March 2019 and that the monthly payments for this amount had commenced on 1st July 2018.

No. 20 Oversley Mill Park

41. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
42. Mrs Jones stated that the information provided in the Pitch Fee Review Form served upon her by the Applicant was correct. She stated that on 1st March 2019 she was paying a figure of £122.22 per month for the pitch and that she had commenced making payments of this amount on 1st April 2018. She stated that the review date of 1st April was agreed (although she did not have a copy of the written statement) but that she had not agreed to the proposed increase on 1st April 2019.
43. The Applicant confirmed that a monthly figure of £122.22 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 3rd April 2018.

No. 22 Oversley Mill Park

44. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
45. Mr Beecher stated that the information provided in the Pitch Fee Review Form served upon them by the Applicant was correct. He stated that on 1st March 2019 they were paying a figure of £122.22 per month for the pitch and that they had commenced making payments of this amount in April 2018. He stated that the review date of 1st April was correct but that they had not agreed to the proposed increase on 1st April 2019.
46. The Applicant confirmed that a monthly figure of £122.22 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 3rd December 2018.

No. 23 Oversley Mill Park

47. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
48. Mr Phillis stated that the information provided in the Pitch Fee Review Form served upon him by the Applicant was incorrect. He stated that he had not agreed to the increase on 1st April 2018. He stated that on 1st March 2019 he was paying a figure of £118.21 per month for the pitch and that he had commenced making payments of this amount on 1st April

2015. He stated that the review date of 1st April was agreed (although he did not have a copy of the written statement).

49. The Applicant confirmed that a monthly figure of £118.21 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st June 2017.

No. 28 Oversley Mill Park

50. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
51. Mr Eden stated that the information provided in the Pitch Fee Review Form served upon him by the Applicant was correct. He stated that on 1st March 2019 he was paying a figure of £122.22 per month for the pitch and that he had commenced making payments of this amount on 1st April 2018. He stated that the review date of 1st April was correct but that he had not agreed to the proposed increase on 1st April 2019.
52. The Applicant confirmed that a monthly figure of £122.22 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st August 2018.

No. 31 Oversley Mill Park

53. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
54. Mr Coombes stated that the information provided in the Pitch Fee Review Form served upon him by the Applicant was incorrect. He stated that he had not agreed to the increase on 1st April 2018. He stated that on 1st March 2019 he was paying a figure of £117.52 per month for the pitch and that he had commenced making payments of this amount on 1st June 2017. He stated that the review date of 1st April was correct.
55. The Applicant confirmed that a monthly figure of £117.52 was being paid on 1st March 2019 and that the monthly payments for this amount had commenced on 1st June 2017.

No. 32 Oversley Mill Park

56. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
57. Mrs Davis stated that the information provided in the Pitch Fee Review Form served upon her by the Applicant was correct. She stated that on 1st March 2019 she was paying a figure of £122.22 per month for the pitch and that she had commenced making payments of this amount on 1st April 2018. She stated that the review date of 1st April was correct.

58. The Applicant confirmed that a monthly figure of £122.22 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 2nd July 2018.

No. 33 Oversley Mill Park

59. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
60. Mrs Reeves stated that the information provided in the Pitch Fee Review Form served upon her by the Applicant was correct. She stated that on 1st March 2019 she was paying a figure of £122.22 per month for the pitch and that she had commenced making payments of this amount on 1st April 2018. She stated that the review date of 1st April was correct but that she had not agreed to the proposed increase on 1st April 2019.
61. The Applicant confirmed that a monthly figure of £122.22 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st August 2018.

No. 35 Oversley Mill Park

62. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £133.36.
63. Mr Pratty stated that the information provided in the Pitch Fee Review Form served upon them by the Applicant was incorrect. He stated that they had not agreed to the increase on 1st April 2018. He stated that on 1st March 2019 they were paying a figure of £128.23 per month for the pitch and that they had commenced making payments of this amount on 1st May 2017. He stated that the review date of 1st April was correct.
64. The Applicant confirmed that a monthly figure of £128.23 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st June 2017.

No. 37 Oversley Mill Park

65. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £133.36.
66. Mrs McDermott stated that the information provided in the Pitch Fee Review Form served upon them by the Applicant was incorrect. She stated that they had not agreed to the increase on 1st April 2018. She stated that on 1st March 2019 they were paying a figure of £128.23 per month for the pitch and that they had commenced making payments of this amount on 1st April 2017. She stated that the review date of 1st April was correct.

67. The Applicant confirmed that a monthly figure of £128.23 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st June 2017.

No. 38 Oversley Mill Park

68. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
69. Mr Glenn stated that the information provided in the Pitch Fee Review Form served upon him by the Applicant was correct. He stated that on 1st March 2019 he was paying a figure of £122.22 per month for the pitch and that he had commenced making payments of this amount on 1st April 2018. He stated that the review date of 1st April was agreed (although he did not have a copy of the written statement) but that he had not agreed to the proposed increase on 1st April 2019.
70. The Applicant confirmed that a monthly figure of £122.22 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st May 2018.

No. 41 Oversley Mill Park

71. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
72. Mr Tew stated that the information provided in the Pitch Fee Review Form served upon him by the Applicant was incorrect. He stated that he had not agreed to the increase on 1st April 2018. He stated that on 1st March 2019 he was paying a figure of £120.46 per month for the pitch and that he had commenced making payments of this amount on 1st April 2019. He stated that the review date of 1st April was correct.
73. The Applicant disagreed with Mr Tew and stated that a monthly figure of £117.52 was being paid by him on 1st March 2019 and that the monthly payments for this amount had commenced on 1st June 2017.

No. 43 Oversley Mill Park

74. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
75. Mrs Chatterley stated that the information provided in the Pitch Fee Review Form served upon her by the Applicant was correct. She stated that on 1st March 2019 she was paying a figure of £122.22 per month for the pitch and that she had commenced making payments of this amount on 1st April 2018. She stated that the review date of 1st April was correct but that she had not agreed to the proposed increase on 1st April 2019.

76. The Applicant confirmed that a monthly figure of £122.22 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st August 2018.

No. 44 Oversley Mill Park

77. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £133.36.
78. Ms Robinson stated that the information provided in the Pitch Fee Review Form served upon her by the Applicant was incorrect. She stated that she had not agreed to the increase on 1st April 2018. She stated that on 1st March 2019 she was paying a figure of £128.23 per month for the pitch and that she had commenced making payments of this amount on 1st April 2017. She stated that the review date of 1st April was correct.
79. The Applicant confirmed that a monthly figure of £128.23 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st June 2017.

No. 46 Oversley Mill Park

80. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
81. The respondent in the application was detailed as the 'Estate of Mrs Stokes deceased'. No response was received from any representative of the Estate in relation to the Tribunal's Directions of 1st November 2019.
82. The Applicant confirmed that a monthly figure of £114.58 was being paid for the pitch on 1st March 2019 and that the monthly payments for this amount had commenced on 1st August 2016.

No. 49 Oversley Mill Park

83. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £133.36.
84. Mr Owens stated that the information provided in the Pitch Fee Review Form served upon them by the Applicant was correct. He stated that on 1st March 2019 they were paying a figure of £133.36 per month for the pitch and that they had commenced making payments of this amount on 1st November 2018. He stated that the review date of 1st April was correct but that they had not agreed to the proposed increase on 1st April 2019.
85. The Applicant confirmed that a monthly figure of £133.36 was being paid on 1st March 2019 and that the monthly payments for this amount had commenced on 1st November 2018.

No. 49A Oversley Mill Park

86. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £133.36.
87. Mr and Mrs Genders stated that the information provided in the Pitch Fee Review Form served upon them by the Applicant was incorrect. They stated that they had not agreed to the increase on 1st April 2018. They stated that on 1st March 2019 they were paying a figure of £128.23 per month for the pitch and that they had commenced making payments of this amount on 1st April 2018. They stated that the review date of 1st April was correct.
88. The Applicant confirmed that a monthly figure of £128.23 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced in July 2017.

No. 53 Oversley Mill Park

89. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
90. Mr and Mrs Coates stated that the information provided in the Pitch Fee Review Form served upon them by the Applicant was correct. They stated that on 1st March 2019 they were paying a figure of £122.22 per month for the pitch and that they had commenced making payments of this amount on 1st April 2018. They stated that the review date of 1st April was agreed (although they did not have a copy of the written statement) but that they had not agreed to the proposed increase on 1st April 2019.
91. The Applicant confirmed that a monthly figure of £122.22 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st May 2018.

No. 66 Oversley Mill Park

92. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £133.36.
93. Ms Tacy stated that the information provided in the Pitch Fee Review Form served upon her by the Applicant was correct. She stated that on 1st March 2019 she was paying a figure of £133.36 per month for the pitch and that she had commenced making payments of this amount on 1st October 2018. She stated that the review date of 1st April was correct but that she had not agreed to the proposed increase on 1st April 2019.
94. The Applicant confirmed that a monthly figure of £133.36 was being paid on 1st March 2019 but stated that the monthly payments for this amount had commenced on 1st November 2018.

No. 67 Oversley Mill Park

95. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £133.36.
96. Mr Hodgetts stated that the information provided in the Pitch Fee Review Form served upon them by the Applicant was correct. He stated that on 1st March 2019 they were paying a figure of £133.36 per month for the pitch and that they had commenced making payments of this amount in August 2018. He stated that the review date of 1st April was agreed (although they did not have a copy of the written statement) but that they had not agreed to the proposed increase on 1st April 2019.
97. The Applicant confirmed that a monthly figure of £133.36 was being paid on 1st March 2019 and that the monthly payments for this amount had commenced on 1st August 2018.

No. 68 Oversley Mill Park

98. The template Pitch Fee Review Form included within the application detailed the current monthly pitch fee as £122.22.
99. Mrs Bland stated that the information provided in the Pitch Fee Review Form served upon them by the Applicant was correct. She stated that on 1st March 2019 they were paying a figure of £122.22 per month for the pitch and that they had commenced making payments of this amount on 1st April 2018. She stated that the review date of 1st April was agreed (although they did not have a copy of the written statement) but that they had not agreed to the proposed increase on 1st April 2019.
100. The Applicant submitted that the monthly pitch fee figure in March 2019 should have been £122.22 but that Mr and Mrs Bland had been paying a figure of £123.00 since 3rd April 2018.

Maintenance of the Site Roads

101. The Applicant denied that either the roads on the Site or the Access Path had deteriorated to a material extent. She stated that repairs and general maintenance had been carried out by her, or on her behalf, whenever necessary and that approximately twenty bags of tarmac had been used.
102. She stated that a dip in the road had occurred in order to slow down drivers, as walls to Properties had been knocked down three times. She further stated that grit had been provided in boxes at various areas on the Site for when the roads were icy.
103. The Respondents stated that there had been a slow deterioration of the Site roads, leading to excess water standing on the surface after bad weather. They stated that the roads had been patched sporadically by

unskilled labourers, which led to them quickly deteriorating, making it difficult for elderly occupiers to traverse the roads.

104. They stated that any repairs and general maintenance consisted of potholes being filled in with tarmac and gravel and that the dips in the road were as a result of poor maintenance, not due to any safety issues. They further stated that the Access Path had deteriorated and been flooded.
105. The Respondents provided, within their bundle, photographs and correspondence between various occupiers and the Applicant. Amongst the correspondence there were documents that referred to the condition of the roads. A letter from Mr and Mrs Genders (No. 49A), dated 29th January 2019, stated that they had made it clear to the Applicant that they might have paid the increase in April 2019 had the roads on the Site been resurfaced. In the letter, they also referred to potholes and dangerous depressions “*constantly worsening*” and that certain areas had standing pools of water after heavy rain “*due to inadequate drainage*”.
106. An email from Mrs McDermott (No. 37), dated 23rd February 2019, complained that the state of the roads was a “*disgrace*” and that a couple of holes that had been filled in had failed to improve anything and had made things look worse. She also stated that she was aware that, when the Applicant took over the Site, “*the roads were not in the best of repair*” but that the Applicant was now responsible for making sure that the roads were kept to a good standard.
107. The correspondence also referred to the lack of any gritting of the roads and stated that any grit that had been provided by the Council was after this had been arranged by the OMPRA.

Maintenance of the Sewerage System

108. The Applicant stated that a new sewerage pump had been installed at the Site in February 2019 at a cost of over £10,000. She stated that a new pump was required due to blockages caused by the residents placing wipes down the toilet. She stated that the old pump was too heavy to move and had been left to be collected in an empty, fenced off pitch, not in a residents’ parking area. She stated that it had now been collected.
109. The Applicant stated that she had cleared a blockage in the sewer of Plot 46. She denied that the photograph supplied by the Respondents in their bundle showed raw sewage and provided two photographs of her own of the area concerned.
110. The Respondents stated that the old discarded pump had been left in a residents parking area and had only been removed after the Respondents had mentioned it in their bundle to the Tribunal. They also stated that there was raw sewage on the site of No. 46, which had simply been covered with a polythene bag. They provided a photograph of what they submitted

was “*raw sewage*” in the unoccupied garden of No. 46 and a photograph of the old sewerage pump on a tarmacked area, which they stated was the residents’ parking bay in front of No. 2A.

Maintenance of the Trees

111. The Applicant stated that there were a number of trees on the residents’ pitches that had been planted by the residents themselves. She stated that, where trees were on a common area, they were maintained by her and that, when trees were deemed to be dangerous, causing damage or dead, they were maintained or removed by her. She stated that the occupiers of No. 49 and No. 45 had stated that they wished to maintain the two fruit trees on the green themselves.
112. The Respondents stated that, although the occupiers were responsible for the cosmetic appearance of the pitches, drastic tasks such as lopping, topping or felling trees, fell under the responsibilities of the Applicant.
113. They referred to paragraph 49 of the Mobile Homes Model Standard, which stated that “*trees on the site would normally be the responsibility of the site owner*” and referred to the fact that consent was required to prune the trees, clearly indicating that the trees belonged to the Applicant.
114. The Respondents stated that the Applicant had not maintained or removed any trees on the Site until September 2019, when she was instructed by a tribunal determination to prune and remove ivy from an overgrown tree.
115. The Respondents, during the Inspection, pointed to the willow at the rear of No. 63, which was overgrown with branches overhanging the public pathway.

Maintenance of the Lighting

116. The Applicant submitted that she had maintained the lighting on the Site. She stated that new lighting had been installed, at a cost of over £7,500, including a new lamp by the river.
117. In relation to the lamp by No. 51, she stated that the occupier of No. 49 (Mr Owens) had complained that the lamp was too close to the other lamps, too bright and shining through his window.
118. The Respondents stated that the lamp outside No. 51 had not been working for approximately 2 ½ years.

Expenditure on the Site

119. The Applicant denied that there had been lack of interest, maintenance or care of the Site. She stated that she had arranged for a new sewerage pump and new lighting to be installed, all prior to the proposed increase.

120. She stated that it was unclear what relevance the income she generated had to do with the pitch fee increase, as the proposed increase had only been calculated in accordance with the retail prices index (RPI).
121. The Respondents stated that they had repeatedly asked the Applicant for proof of expenditure on the Site to warrant the proposed increase detailed in the notices, but that none had been supplied.

The Tribunal's Deliberations

122. The Tribunal considered all of the evidence submitted, which is briefly summarised above.
123. Where a notice is valid, and the application to the Tribunal is made in time, there is a presumption, under paragraph 20, that the pitch fee shall increase (or decrease) by the percentage increase (or decrease) in the RPI. This presumption is rebuttable if the Tribunal considers it unreasonable for the increase (or decrease) to take place, having regard to the matters referred to in paragraph 18(1).

Validity of the Notices

124. The Applicant stated that she had indicated, in section 4 of the application forms, that the review on 1st April 2018 was by agreement, as it had not been made by order of the court or by way of a tribunal determination, which were the only other options on the form.
125. It is evident to the Tribunal, from the submissions made and from the information received from the Applicant, that some of the Respondents had not agreed to the April 2018 pitch fee increase and had not been paying the same. As there had been no application made to the Tribunal for a determination of the proposed pitch fee increase in 2018, provided those respondents who had not agreed to the increase had continued paying their existing pitch fee, the amount of that existing pitch fee would have been the maximum amount payable by them. The failure to pay the proposed new pitch fee would not have resulted in them being in arrears.
126. Under paragraph 17(2A) any notice which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 25A. Paragraph 25A(1)(a) requires such a document to be in a prescribed form. The Tribunal notes that the applications to the Tribunal contained copies of templates of the Pitch Fee Review Forms that the Applicant states were forwarded to each of the Respondents. The Pitch Fee Review Form requires the site owner, in section 2, to detail the current pitch fee and the proposed new pitch fee.
127. It is quite clear that, for those of the Respondents who had not agreed to the April 2018 pitch fee and had not paid the same, the 'current pitch fee' and the 'proposed new pitch fee' detailed on the forms completed by the

Applicant, both of which figures were based on the assumption that the April 2018 review increase had been agreed, were incorrect.

128. In *Small and others v Talbot and others* [2014] UKUT 0015 (LC), a case which arose prior to the Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations 2013 coming in to force, the Upper Tribunal held as invalid a notice of a proposed increase which failed to identify the correct current pitch fee on which the calculation of the proposed new fee was based. As the said regulations now set out a prescribed form which requires the current pitch fee and proposed new pitch fee to be detailed, the Tribunal considers it clear that a failure to provide the correct information in respect of these items would render a notice invalid. As such, the Tribunal determines that the notices sent on 1st March 2019 for the following properties are invalid:

No. 2A, No.6, No. 16, No. 23, No. 31, No. 35, No. 37, No. 41, No. 44, No. 46 and No. 49A

129. In relation to No. 67, Mr and Mrs Hodgetts stated that they did not have a copy of their written statement; however, the Applicant had provided a copy with her application. This stated, on page 5, that the pitch fee would be reviewed on 1st March each year. Although the Applicant had stated that, despite this, the pitch fee review had been taking place in April; there is no addendum to the written statement to evidence that it had been so varied. As such, the Tribunal also determines that the notice of 1st March 2019 served on No. 67 is invalid, as it detailed the wrong review date.
130. The Tribunal determines that the notices sent on 1st March 2019 in respect of the remaining properties, and the corresponding applications made to the Tribunal, are valid.

Maintenance of the Site Roads

131. In order for the presumption under paragraph 20 to be rebutted, the Tribunal must be satisfied that it would be unreasonable for the pitch fee to be increased due to any deterioration in the condition of the roads.
132. The submissions made by the Respondents included correspondence which indicated that the roads had been in a poor condition for a number of years. The email from Mrs McDermott noted that the roads had not been in the best of condition when the Applicant took over the Site and a letter from the Applicant to Mr and Mrs Gender, dated 28th January 2019, queried with them: “*how can you make demands for work carried out on the site when the Park has not changed.*”. Although the letter from Mr and Mrs Genders in reply to the letter from the Applicant referred to potholes and dangerous depressions worsening since their purchase in 2015, the example they gave was in relation to flooding occurring after heavy rains due to inadequate drainage.

133. The Tribunal noted, during its inspection, that the roads on the Site did have some potholes and some of the surfaces were uneven from wear and tear, including the Access Path. The Tribunal also noted that there appeared to be no formal planned maintenance programme in place and that, instead, some patchwork repairs had been carried out by the Applicant. Despite this, the Tribunal considered that the majority of the roads were, at the time the Inspection, in a fair condition.
134. Even though it had rained heavily on the days prior to the Inspection, the Tribunal did not note any areas, including the parking areas and the Access Path, that were especially affected by standing water.
135. Although the submissions referred to the condition of the roads worsening, the Tribunal does not consider that there is sufficient evidence of 'deterioration' in the condition of the roads on the Site or the Access Path, which would make it unreasonable for an increase to be made.
136. Regarding the gritting of the roads, as the Respondents submitted that this was not a service that had ever been provided by the Applicant, the Tribunal does not consider that there has been any reduction or deterioration in the quality of any services provided in this regard.

Maintenance of the Sewerage System

137. The Tribunal notes that the Respondents' submissions related to raw sewage in the garden of No. 46 and a discarded pump which had been left in a residents' parking area after it had been replaced with a new pump. The Applicant denied that the photograph provided by the Respondents detailed raw sewage but did confirm that there had been a blockage in the sewer at No. 46, which she had cleared. The Tribunal also notes that the new sewerage pump had been installed by the Applicant at the Site prior to the notices being served.
138. Although the Tribunal accepts that the two matters raised by the Respondents might have been unpleasant and unsightly and caused some of the Respondents an inconvenience, it does not consider that they would constitute a deterioration in the condition or loss of amenity to the Site, such as to make it unreasonable for an increase to be made under paragraph 20.

Maintenance of the Trees

139. The Tribunal notes both parties' submissions in relation to the maintenance of the trees.
140. The Applicant contends that some of the trees were planted by the occupiers and are, consequently, their responsibility but appears to accept that when trees are sited on a common area or when they are deemed to be dangerous, causing damage or dead, that their maintenance is the responsibility of the Applicant.

141. The Respondents submit that, although they are responsible for the cosmetic appearance of their pitch, they are not responsible for lopping, topping or felling trees, and that the Applicant had only commenced maintaining or removing trees following a determination by the Tribunal.
142. The Respondents also refer to paragraph 49 of the Mobile Homes Model Standards, which state that “*trees on the site would normally be the responsibility of the site owner*”.
143. Paragraph 49 of the Mobile Homes Model Standards is detailed in the section which refers to “*Maintenance of common areas, including grass, vegetation and trees*”. As such, the paragraph only relates to those items which are within the common areas, i.e. those areas which are available for common use and not within the curtilage of any occupier’s private pitch.
144. Paragraph 21 of Chapter 2 details the occupier’s obligations, which include under 21(d) to “*maintain*” the “*outside of the mobile home*” and “*the pitch...in a clean and tidy condition*”. Quite clearly, under the Act, the occupier is obliged to maintain their pitch, which would include any garden area. It follows that they would also be liable to maintain any trees that fell within the garden area in a *clean and tidy condition*, just as they would be liable to maintain the lawn or any shrubs within the garden. This is not inconsistent with them having to obtain consent to prune trees.
145. During the inspection, the Tribunal noted that the tree to the rear of No. 39 had been trimmed by the Applicant, although understood that this had taken place relatively recently.
146. Although the garden to No. 63 was overgrown, the Tribunal considers that the responsibility to maintain this would fall to the representatives of the late occupier and not the Applicant.
147. The willow tree located at the rear of number 63 was also overgrown and overhanging the public footpath. This appeared, from the Tribunal’s inspection, to be the only tree on the Site which required any urgent attention and the Tribunal did consider that it would be the responsibility of the Applicant to carry out the same. The Tribunal did not, however, consider that based on its location, at the very rear edge of the Site, it to be causing any deterioration in the condition or decrease in the amenity of the Site, although it was causing some obstruction to the public pathway which did not form part of the Site.

Maintenance of the Lighting

148. The Tribunal notes that, although the lamp outside No. 51 had not been working for a number of years, the Applicant had submitted that the lamp had not been replaced due to one of the occupiers complaining about its brightness and locality to the other lamps.

149. The Applicant had installed new lighting by the riverbank and the Tribunal considered that the lighting at the Site, and its maintenance, was adequate. The Tribunal did not consider that the failure of the Applicant to maintain one lamp would result in a deterioration in the condition of the Site such as to render any increase of the pitch fee under paragraph 20 unreasonable.

Expenditure on the Site

150. The Tribunal notes that the Respondents stated in their submissions that they had requested proof of expenditure from the Applicant to warrant the proposed increase in the pitch fee.

151. Under paragraph 20, there is a presumption that the pitch fee shall increase or decrease in line with the change in the RPI, unless it would be unreasonable having regard to paragraph 18(1).

152. As the Applicant had not claimed that any of the sums expended by her fell under paragraph 18(1)(a), the only relevant provisions are 18(1)(aa) – any deterioration in the condition or decrease in the amenity of the Site – and 18(1)(ab) – any reduction or deterioration in the quality of the services to the Site. As such, the amount that the Applicant had expended on the Site is irrelevant when determining the amount of the new pitch fee.

Summary

153. For the reasons detailed above, the Tribunal considers that the notices sent by the Applicant in respect of the following properties were invalid and of no effect:

No. 2A, No. 6, No. 16, No. 23, No. 31, No. 35, No. 37, No. 41, No. 44, No. 46, No. 49A and No. 67

154. The Tribunal considers that the notices in relation to the remaining properties were valid, namely those for:

No. 15, No. 18, No. 20, No. 22, No. 28, No. 32, No. 33, No. 38, No. 43, No. 49, No. 53, No. 66 and No. 68

155. As stated above, where a notice is valid, and the application to the Tribunal is made in time, there is a presumption, under paragraph 20, that the pitch fee shall increase or decrease by the percentage increase or decrease in the RPI, unless the Tribunal considers this unreasonable having regard to the matters referred to in paragraph 18(1).

156. The Tribunal does not consider that there has been any deterioration in the condition or decrease in the amenity of the Site, nor any reduction or deterioration in the quality of the services to the Site, such as to render the statutory presumption unreasonable.

157. In summary, and for the reasons given above, the Tribunal finds that the statutory presumption set out in paragraph 20 of the Act applies and that the relevant pitch fees for those properties detailed in paragraph 154 above are to increase by 2.5% as from the date specified in the notices.

Appeal

158. If either party is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

M. K. GANDHAM

.....

Judge M. K. Gandham

SCHEDULE OF PROPERTIES AND RESPONDENTS

All properties are situated at Oversley Mill Park

PROPERTY	RESPONDENT(S)	REF
No 2A	Mrs Allcott	0018
No 6	Mrs Pittaway	0019
No 15	Mr & Mrs Fackrell	0020
No 16	Mrs Simmons	0021
No 18	Mrs Butcher	0022
No 20	Mrs Jones	0023
No 22	Mr & Mrs Beecher	0024
No 23	Mr Phillis	0025
No 28	Mr Eden	0026
No 31	Mr Coombes	0027
No 32	Mrs Davis	0028
No 33	Mrs Reeves	0029
No 35	Mr & Mrs Pratty	0030
No 37	Mr & Mrs McDermott	0031
No 38	Mr Glenn	0032
No 41	Mr Tew	0033
No 43	Mrs Chatterley	0034
No 44	Ms Robinson	0035
No 46	The Estate of Mrs Stokes (Deceased)	0036
No 49	Mr & Mrs Owens	0037
No 49A	Mr & Mrs Genders	0038
No 53	Mr & Mrs Coates	0039
No 66	Ms Tacy	0042
No 67	Mr & Mrs Hodgetts	0043
No 68	Mr & Mrs Bland	0044