FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/36UD/PHA/2020/0001**
Property	**:**	**1 Nidderdale Lodge Park, York Road, Knaresborough, HG5 0TX**
Applicant	**:**	**Ms Y Bovis**
Respondent	**:**	**Mr J Mitchell**
Representative	**:**	**LSL solicitors**
Type of Application	**:**	**Applications under Schedule 1(6) and Section 4 of the Mobile Homes Act 1983**
Tribunal Member	**:**	**Mr J A Platt FRICS, FIRPM (Chairman)** **Mr P Mountain**
Date of Decision	**:**	**4 January 2022**

DECISION

The Applications

1. The Applicant made two applications dated 11 June 2020 under the Mobile Homes Act 1983 ("the Act").

    a. An application under Section 1(6) "for an order that the site owner give the occupier a written statement as to the terms of their agreement".

    b. An application under Section 4 "for a determination of any question arising under the Mobile Homes Act 1983 or agreement to which it applies".

2. The Tribunal issued directions on 20 August 2020. Both parties have substantially complied with those directions.

3. Both applications named Mr J Mitchell as the respondent. The parties were informed on 12 October 2020 that the tribunal had replaced Mr J Mitchell as respondent with Woking Residential Park Homes Ltd under Rule 10 of the Tribunal Procedure (first-tier Tribunal) (Property Chamber) Rules 2013.

Inspection

4. The tribunal inspected the Park Home Site on 18 November 2021 in the presence of the Applicant and Mr J Mitchell and Mr J Payne of the Respondent.

The Law

5. The relevant sections of the Mobile Homes Act 1983 are appended to this decision.

Hearing

6. A video hearing was held on 21 December 2021. The Applicant, Ms Bovis, represented herself. The Respondent, Woking Residential Park Homes Ltd ("WRPH") was represented by Mr J Payne.

7. The issues identified withing the applications were:

    Section 1(6)
    a. lack of receipt of a written statement

    Section 4:
    b. Level of pitch fee payable
    c. Payability of water / sewerage charges
    d. Boundary hedge & fence ownership and repairing responsibilities
    e. Gated access in boundary fence
    f. The quality of the block paving installed on the Applicant's pitch
    g. The quality and responsibility for defects to, the decking installed on the Applicant's pitch

h. Damage to, and / or suitability of, the hatch providing access to the decking under croft
i. The parking of a taxi on the site roadway
j. The parking of a camper van on the site, adjacent to the Applicant's pitch
k. Concrete blocks stored upon on area of the site outwith the Applicant's pitch

8. At the start of the hearing, Ms Bovis confirmed this as an accurate list of the issues upon which determinations were requested.

9. The tribunal explained the limits of its jurisdiction under S4 of the Act. In particular that "determination of any question arising under the Mobile Homes Act 1983 or agreement to which it applies" is restricted to "agreements which relate to a pitch" and pitch is defined as "the land, forming part of a protected site and including any garden area, on which an occupier is entitled to station a mobile home under the terms of the agreement".

10. A number of the above mentioned issues were identified within the application and Ms Bovis' statements of case to relate to agreements other than agreement relating to the siting of her park home on her pitch, including; the sales / purchase agreement of the park home, agreements between Ms Bovis and WRPH for the provision of decking and block paving and WRPH's agreements with other occupiers relating to other pitches. The tribunal advised that any disputes under those agreements were outside the tribunal's jurisdiction.

11. The tribunal approached each of the issues in turn. Witness statements provided my Mr Mitchell and Mr Frendt were taken as read with both parties given an opportunity to question the witnesses as each of the relevant issues were being discussed. Mr Frendt had technical difficulties during the early parts of the hearing and Ms Bovis was, therefore, given an opportunity to ask any questions relating to his witness statement at the end of the hearing. She had none.

12. It is not necessary to recite the witness evidence nor discussions in detail. The relevant points are dealt with on an issue by issue basis below:

Section 1(6) Application

13. Ms Bovis repeatedly asserts within her application, her written evidence, and at the hearing, that she has never received a written statement as required by the Act. The Respondent asserts that it has provided a written statement on several occasions.

14. Ms Bovis' evidence is somewhat contradictory. Within her written response to the Respondent's statement of case for example, she says (in various places):

a. *In the written statement it also states that the pitch fee is payable from the 1st September…*
b. The very next sentence: *I confirm up until now I have not received a written statement …*
c. *I have never received a full written statement until recently …*

15. It transpired, at the hearing, that Ms Bovis' assertion is actually that she has never received a written statement which contains the specific information details she thinks it should (specifically a different level of pitch fee and a more detailed plan of the pitch: both dealt with below).

16. Ms Bovis asserts that the plan of the pitch within the written statement is inadequate to identify the size and location of the pitch. In an attempt to minimise the issues, WRPH had provided a revised plan by letter to Ms Bovis on 25 March 2021. WRPH requested permission (by email on 17 November 2021) to include the letter and revised plan into evidence. The tribunal considered this as a preliminary matter. Ms Bovis advised that she had never received a copy. The tribunal took the view that the plan was nothing more than a 'clearer version' of the plan within the written statement already included in evidence, advised Ms Bovis that the only significant addition was clarification of the 1m distance between the site boundary and Ms Bovis' park home (this has relevance to the boundary issues considered below) and admitted it into evidence. A copy of the said plan is appended to this decision.

17. The tribunal finds that a written statement has been provided. As detailed below, the tribunal finds, on the balance of probabilities, that a written statement was signed by Mr Mitchell on 16 September 2019 in the presence of Ms Bovis. Even if Ms Bovis did not receive a copy of that document and has not received further copies, she had clearly received the copy included within the Respondent's bundle.

18. The tribunal dismisses the application and declines to make an order requiring the Respondent to provide a written statement.

Section 4 Application

Issue 1: Level of pitch Fee

19. The tribunal is requested to determine the original level of pitch fee payable under the agreement at the time of Ms Bovis' purchase of the home on 16 September 2019. Ms Bovis asserts that the agreed pitch fee was £394.30 per quarter and the Respondent asserts that it was £498 per quarter.

20. Ms Bovis relies on a copy of what appears to be part of the relevant page from a Schedule 4 Assignment Form ("pitch fee agreement") detailing the current pitch fee as £394.30 per quarter with a review date of 01/08/2020. That

document is signed by Ms Bovis with a signature date of 7 September 2019. The document is not signed by WRPH.

21. WRPH relies upon a fully completed Schedule 4 Assignment Form detailing the pitch fee as £498 per quarter with a review date January 2020. That document is signed by Mr Mitchell (on behalf of WRPH) with a signature date of 16 September 2019 and by Ms Bovis with a signature date of 7 September 2019. WRPH also relies on a written statement signed by Mr Mitchell (on behalf of WRPH) on 16 September 2019, which details the pitch fee as £498 per quarter with a review date of 01 January. Both of these documents clearly relate to the subject site and subject pitch.

22. Ms Bovis asserts that the pitch fee agreement she relies on was provided (via email) by the office of WRPH, signed by Ms Bovis and returned (via email) on 7 September 2019. Ms Bovis further asserts that the pitch fee agreement relied upon by the Respondent was not signed by her but that the document she did sign on 7 September has been transposed, without her knowledge or consent, into this agreement with a revised level of pitch fee.

23. WRPH asserts that the agreement signed by Mr Mitchell was emailed to site on 16 September 2019, was printed out and signed by Mr Mitchell in the presence of Ms Bovis, within her home. WRPH relies on witness evidence of Mr Mitchell to this effect and a corroboratory statement provided by Mrs Mitchell. Mr Mitchell related at the hearing how Mrs Mitchell had taken Ms Bovis shopping and the documents were all signed on their return. The tribunal notes that additional sales documents were signed by Mr Mitchell on the same date as was the Park Home sales invoice signed by Ms Bovis.

Issue 1: decision

24. The tribunal has seen no evidence relating to an oral agreement or any written particulars relating to a pitch fee of £394.30 per quarter. Apart from the partial agreement referred to above, the tribunal has seen no other evidence indicating that a pitch of £394.30 per quarter was agreed prior to, or upon, completion of Ms Bovis' purchase of the park home. That document is, at best, an offer from Ms Bovis to pay a pitch of £394.30 per quarter which has not been accepted by WRPH.

25. Mr Frendt's witness evidence is that he made enquiries of Mr Mitchell on the level of pitch fee when accompanying Ms Bovis on her initial viewing of the park home and advised her that it would be £498 per quarter. WRPH's evidence is that £498 was the standard level of pitch fee across the site, with a review date of 1 January, it has no knowledge of a sum of £394.30 and a review date of 1 August 2020 would be illogical.

26. It is still unclear to the tribunal whether or not Ms Bovis disputes Mr Mitchell's version of events regarding the signing of these documents within

her home. The tribunal finds no reason to doubt the veracity of Mr Mitchell's witness evidence, notes the statements of Mrs Mitchell and the sales invoice signed by Ms Bovis and dated 16 September 2019 to find, on the balance of probabilities, that such signings of all relevant documents did take place, all at the same time, in the presence of Ms Bovis on 16 September 2019.

27. Ms Bovis asserts that the Pitch Fee Agreement was produced by some means of subterfuge without her knowledge or consent such as to make it invalid as a binding contract. The tribunal has not undertaken a forensic examination of the evidence necessary to ascertain, beyond reasonable doubt, if that is the case. This tribunal is not the relevant forum for the consideration of such allegations. No court of law has determined the contractual agreement to be invalid and the tribunal takes the signed agreement at face value. The tribunal has, however, also had regard to all the evidence detailed above and does not solely rely on the signed agreement in making its determination on the level of pitch fee.

28. Having regard to all evidence detailed above, including the cotemporaneous signing of all sales documents on the date of completion, in the presence of Ms Bovis, the Tribunal finds, on the balance of probabilities, that the agreed pitch fee was £498 per quarter with a review date of 1st January.

Issue 1(a): reviewed level of pitch fee

29. The hearing of this case has been significantly delayed (largely by Covid-19) and hence the determination of the initial level of pitch fee is now out of date. It was unclear whether the tribunal was also being requested to determine the current level of pitch fee (for 2021) and the level of pitch fee for 2020.

30. WRPH invited the tribunal to make such decisions and asserted that Ms Bovis had agreed to the revised pitch fees from 1 January 2020 and 1 January 2021 by reason of making payment without objection. Ms Bovis asserts that she did object and only made payment due to fear of legal action. By letter dated 3 December 2021 WRPH requested permission to include details of the pitch fee review 2021 and Ms Bovis' payments into evidence. The tribunal considered this as a preliminary matter and having taken representations from both parties, decided to admit the evidence.

31. There was no dispute between the parties about the service of the relevant written notices. Ms Bovis made no assertions as to why the level of pitch fee should not increase in line with the (default position) increase in retail price index. Ms Bovis actually stated at the hearing that she was fully aware that the determined level of pitch fee would increase in line with RPI for each year.

32. The Tribunal has seen evidence of payment by Ms Bovis and no evidence that she did not agree the (level of) increase on each pitch fee review, such that

WRPH would have submitted a timely application under 14(5) of the Act for a determination by the tribunal. The notice of increase dated 29 November 2019 was actually provided by Ms Bovis with her application, without any note of disagreement to the proposed level of increase.

33. The tribunal determines, on the balance of probabilities, that the increases on 1 January 2020 & 2021 were agreed by Ms Bovis and determines the reviewed pitch fee for 2020 is £508.46 per quarter and for 2021 is £515.07 per quarter.

Issue 2: payability of water and sewerage charges

34. Ms Bovis asserts that the written statement should contain details of any additional charges and that it contains no details of additional water and sewerage charges. She asserts that she had no knowledge that they were payable. WRPH asserts that the written statement is clear in that no water or sewerage charges are stated as being included within the pitch fee.

35. The Tribunal has regard to the definition of "pitch fee" at para 29 of the Act:

"pitch fee" means the amount which the occupier is required by the agreement to pay to the owner …., but does not include amounts due in respect of gas, electricity, water and sewerage or other services, unless the agreement ***expressly provides*** *that the pitch fee includes such amounts"*

36. The Tribunal also notes para 5 of Ms Bovis' letter to WRPH dated 4 December 2019:

"I have received a quarterly water bill up until the 31st October 2019 and I was not in this property for the full quarter. Please forward a pro rata bill for the correct period so that I can forward payment."

37. The written statement does not expressly provide that the pitch fee includes water and sewerage costs. The Tribunal determines that such costs are recoverable by WRPH as additional costs incurred. The Tribunal was not requested to determine the amount of those costs.

Issue 3: Boundary hedge & fence ownership and repairing responsibilities

38. Plot 1 is adjacent to the boundary of the site which is made up of a leylandii hedge plus a wood panel fence. The application requested a determination of ownership and repairing responsibility for both the hedge and the fence.

39. WRPH provided evidence that both the hedge and the fence were installed by the owner of the adjoining property who retains ownership and repairing responsibilities for both. WRPH has removed overhanging branches from the leylandii.

40. Ms Bovis asserts that the local authority has outstanding issues with both the hedge and the fence and require works to be undertaken in accordance with the site licence conditions. She also asserts that the pitch breaches the site licencing conditions because her park home is located too close to the boundary.

41. It was unclear to the tribunal what solution Ms Bovis sought regarding the siting of her park home, however, the tribunal notes that Ms Bovis bought the park home in situ on the current pitch.

42. The tribunal advised that it has no jurisdiction to take enforcement action on behalf of the local authority.

43. Ms Bovis provided no evidence to counter WRPH's assertion that ownership of the hedge and fence lay with the owner of the adjoining property. The tribunal, therefore, takes the evidence at face value that no ownership or repairing liabilities lay with WRPH. The Tribunal has no jurisdiction to order WRHP to undertake any works of maintenance or repair in respect of alleged breaches of site licence conditions, has not been requested by the local authority to take any enforcement action on its behalf and, in any event, has no such jurisdiction.

Issue 4: Gated access within boundary fence

44. The boundary fence referred to above contains a gated access into the site and onto pitch number 1. Ms Bovis asserts that WRPH should have advised her of any right of access across the pitch and asserts that WRPH should close off the gate to prevent the occupier of the neighbouring property accessing her pitch.

45. WRPH gave evidence that they are unaware of any easement, right of access or public right of way via the said gate.

46. The Tribunal has no jurisdiction to make any determination in respect of the gate and declines to do so.

Issues 5, 6 & 7: The quality of the block paving and decking installed on the Applicant's pitch and alleged damage to the hatch providing access to the decking under croft

47. Upon purchasing her park home, Ms Bovis entered into agreements with WRPH to install block paving and decking. Ms Bovis has issues around the quality of the work undertaken. There is no need for this decision to go into any detail on the issues because the Tribunal has no jurisdiction with regard to those agreements.

Issue 8: the parking of a taxi on the site roadway

48. Ms Bovis alleges that a (former?) resident of the site has caused inconvenience to her by parking a taxi on the site roadway blocking access to her parking area. Ms Bovis requested the tribunal order WRPH to take enforcement action against the resident to prevent any future inconvenience. The tribunal has no jurisdiction to consider alleged breaches of pitch agreements or site rules by other occupiers nor to order the site owner to take enforcement action against other occupiers.

Issue 9: the parking of a camper van adjacent to pitch 1

49. There is no reason to cite the issues in any detail because, the tribunal has no jurisdiction to consider alleged breaches of pitch agreements or site rules by other occupiers nor to order the site owner to take enforcement action against other occupiers.

Issue 10: Concrete blocks stored upon on area of the site outwith the boundary of pitch 1

50. Ms Bovis objects to the storage of a number of concrete blocks on an area of the site visible from her park home. The tribunal declined to hear evidence on ownership of the said blocks on the basis that it is of no relevance to the tribunal. The tribunal has no jurisdiction to order the site owner to take actions relating to the use of any areas outside the boundary of the occupier's pitch and the tribunal has no jurisdiction to consider alleged breaches of pitch agreements or site rules by other occupiers nor to order the site owner to take enforcement action against other occupiers.

General

51. The tribunal had difficulty ascertaining Ms Bovis' desired solutions / outcomes to the issue she had identified. When pushed on this she repeatedly stated; "if I had received a written statement ….". It is apparent that Ms Bovis has a degree of buyer's remorse, but the tribunal is unable to turn back time. It is appropriate for this decision to record that Ms Bovis did acknowledge that she purchased the Park Home in situ on its current pitch, made no enquiries of the local authority prior to purchase and took no legal advice on that purchase.

52. Notwithstanding the jurisdiction issues, the Tribunal approached each of the issues in turn and provided Ms Bovis an opportunity to explain the solutions she was seeking and to make assertions as to why the tribunal had any jurisdiction to consider the issues and the proposed solutions.

Application for costs

53. At the conclusion of the hearing Ms Bovis made an oral application for costs under Rule 13 of the Tribunal Procedure (first-tier Tribunal) (Property Chamber) Rules 2013.

54. The Tribunal declined to consider the application at the hearing, having received no written submissions.

55. My Payne helpfully suggested that Ms Bovis take advice before proceeding with any costs application and stated that he wished to reserve the position of WRPH to also make a costs application.

56. The Tribunal directs that either party wishing to make an application for costs under Rule 13 of the Tribunal Procedure (first-tier Tribunal) (Property Chamber) Rules 2013 should do so by written application within 28 days of the date of this decision. If any such application is made the Tribunal will issue additional directions on submissions. Those directions will include a further opportunity for the other party to make their own cross application for costs.

57. In the event that no written application is received from Ms Bovis within 28 days of the date of this decision the tribunal will deem that a request has been made to withdraw the oral application, that permission for the withdrawal has been granted and will make no determination.

J A Platt (Chairman)

Appendix 1: The Law

1Particulars of agreements

(1)This Act applies to any agreement under which a person ("the occupier") is entitled—
(a)to station a mobile home on land forming part of a protected site; and
(b)to occupy the mobile home as his only or main residence.

(2)Before making an agreement to which this Act applies, the owner of the protected site ("the owner") shall give to the proposed occupier under the agreement a written statement which—
(a)specifies the names and addresses of the parties;
(b)includes particulars of the land on which the proposed occupier is to be entitled to station the mobile home that are sufficient to identify that land;
(c)sets out the express terms to be contained in the agreement (including any site rules (see section 2C));
(d)sets out the terms to be implied by section 2(1) below; and
(e)complies with such other requirements as may be prescribed by regulations made by the Secretary of State.

(3)The written statement required by subsection (2) above must be given—
(a)not later than 28 days before the date on which any agreement for the sale of the mobile home to the proposed occupier is made, or
(b)(if no such agreement is made before the making of the agreement to which this Act applies) not later than 28 days before the date on which the agreement to which this Act applies is made.

(4)But if the proposed occupier consents in writing to that statement being given to him by a date ("the chosen date") which is less than 28 days before the date mentioned in subsection (3)(a) or (b) above, the statement must be given to him not later than the chosen date.

(5)If any express term other than a site rule (see section 2C)—
(a)is contained in an agreement to which this Act applies, but
(b)was not set out in a written statement given to the proposed occupier in accordance with subsections (2) to (4) above,
the term is unenforceable by the owner or any person within section 3(1) below. This is subject to any order made by the appropriate judicial body under section 2(3) below.

(6)If the owner has failed to give the occupier a written statement in accordance with subsections (2) to (4) above, the occupier may, at any time after the making of the agreement, apply to the appropriate judicial body for an order requiring the owner—
(a)to give him a written statement which complies with paragraphs (a) to (e) of subsection (2) (read with any modifications necessary to reflect the fact that the agreement has been made), and
(b)to do so not later than such date as is specified in the order.

(7)A statement required to be given to a person under this section may be either delivered to him personally or sent to him by post.

(8)Any reference in this section to the making of an agreement to which this Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which this Act applies.

(8A)Subsections (3), (4) and (6) do not apply in relation to a person occupying or proposing to occupy a transit pitch on a local authority gypsy and traveller site or a county council gypsy and traveller site and in such cases, the reference in subsection (5) to subsections (2) to (4) is to be treated as a reference to subsection (2).

(8B)In subsection (8A) “county council gypsy and traveller site”, “local authority gypsy and traveller site” and “transit pitch” all have the same meanings as in paragraph 1(4) of Chapter 1 of Part 1 of Schedule 1 to this Act.

(9)Regulations under this section—
(a)shall be made by statutory instrument;
(b)shall be subject to annulment in pursuance of a resolution of either House of Parliament; and
(c)may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

4. **Jurisdiction of a tribunal or the court**

(1) In relation to a protected site, a tribunal has jurisdiction—
(a)to determine any question arising under this Act or any agreement to which it applies; and
(b)to entertain any proceedings brought under this Act or any such agreement, subject to subsections (2) to (6).

(2) Subsection (1) applies in relation to a question irrespective of anything contained in an arbitration agreement which has been entered into before that question arose.

(3) In relation to a protected site, the court has jurisdiction—
(a)to determine any question arising by virtue of paragraph 4, 5 or 5A(2)(b) of Chapter 2, or paragraph 4, 5 or 6(1)(b) of Chapter 4, of Part 1 of Schedule 1 (termination by owner) under this Act or any agreement to which it applies; and
(b)to entertain any proceedings so arising brought under this Act or any such agreement, subject to subsections (4) to (6).

(4) Subsection (5) applies if the owner and occupier have entered into an arbitration agreement before the question mentioned in subsection (3)(a) arises and the agreement applies to that question.

(5) A tribunal has jurisdiction to determine the question and entertain any proceedings arising instead of the court.

(6) Subsection (5) applies irrespective of anything contained in the arbitration agreement mentioned in subsection (4).

Quiet enjoyment of the mobile home Undisturbed possession of the mobile home
11 The occupier shall be entitled to quiet enjoyment of the mobile home together with the pitch during the continuance of the agreement, subject to paragraphs 10, 12, 13 and 14.

11 (1)The occupier is entitled to undisturbed possession of the mobile home together with the pitch during the continuance of the agreement.
(2)Sub-paragraph (1) is subject to paragraphs 10, 12, 13 and 14.

The pitch fee
16The pitch fee can only be changed in accordance with paragraph 17, either—
(a)with the agreement of the occupier, or
(b)if the appropriate judicial body, 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.

16 (1)Once reviewed, the pitch fee can only be changed at the relevant date.

(2)For the purposes of sub-paragraph (1) “the relevant date” is—
(a)where paragraph 17(1) applies the next review date;

(b)where paragraph 19(2) applies the 28th day after the date on which the owner served the notice under paragraph 19(1); or
(c)where paragraph 20(3)(b) applies the 28th day after the date of the court order determining the amount of the pitch fee.

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) notice under sub-paragraph (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 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 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 no later than three months after the review date.

(6)Sub-paragraphs (7) to (10) apply if the owner—
(a)has not served the notice required by sub-paragraph (2) by the time by which it was required to be served, but
(b)at any time thereafter serves on the occupier a written notice setting out his proposals in respect of a new pitch fee.
(6A)A notice under sub-paragraph (6)(b) which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 25A.

(7)If (at any time) the occupier agrees to the proposed pitch fee, it shall be payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (6)(b).

(8)If the occupier has not agreed to the proposed pitch fee—
(a)the owner or 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)if the appropriate judicial body makes such an order, the new pitch fee shall be payable as from the 28th day after the date on which the owner serves the notice under sub-paragraph (6)(b).

(9)An application under sub-paragraph (8) may be made at any time after the end of the period of 56 days beginning with date on which the owner serves the notice under

sub-paragraph (6)(b) but no later than four months after the date on which the owner serves that notice.

(9A)A tribunal may permit an application under sub-paragraph (4)(a) or (8)(a) to be made to it outside the time limit specified in sub-paragraph (5) (in the case of an application under sub-paragraph (4)(a)) or in sub-paragraph (9) (in the case of an application under sub-paragraph (8)(a)) if it is satisfied that, in all the circumstances, there are good reasons for the failure to apply within the applicable time limit and for any delay since then in applying for permission to make the application out of time.

(10)The occupier shall not be treated as being in arrears—

(a)where sub-paragraph (7) applies, until the 28th day after the date on which the new pitch fee is agreed; or

(b)where sub-paragraph (8)(b) applies, 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 order determining the amount of the new pitch fee.

(11)Sub-paragraph (12) applies if a tribunal, on the application of the occupier of a pitch, is satisfied that—

(a)a notice under sub-paragraph (2) or (6)(b) was of no effect as a result of sub-paragraph (2A) or (6A), but

(b)the occupier nonetheless paid the owner the pitch fee proposed in the notice.

(12)The tribunal may order the owner to pay the occupier, within the period of 21 days beginning with the date of the order, the difference between—

(a)the amount which the occupier was required to pay the owner for the period in question, and

(b)the amount which the occupier has paid the owner for that period.

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) 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) 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);

(ba)any direct effect on the costs payable by the owner in relation to the maintenance or management of the site of an enactment which has come into force since the last review date; and

(1A)But no regard shall be had, when determining the amount of the new pitch fee, to any costs incurred by the owner since the last review date for the purpose of compliance with the amendments made to this Act by the Mobile Homes Act 2013.

(2)When calculating what constitutes a majority of the occupiers for the purposes of sub-paragraph (1)(b)(iii) each mobile home is to be taken to have only one occupier and, in the event of there being more than one occupier of a mobile home, its occupier is to be taken to be the occupier whose name first appears on the agreement.

(3)In a case where the pitch fee has not been previously reviewed, references in this paragraph to the last review date are to be read as references to the date when the agreement commenced.

19 (1)When determining the amount of the new pitch fee, any costs incurred by the owner in connection with expanding the protected site shall not be taken into account.

(2)When determining the amount of the new pitch fee, no regard may be had to any costs incurred by the owner in relation to the conduct of proceedings under this Act or the agreement.

(3)When when determining the amount of the new pitch fee, no regard may be had to any fee required to be paid by the owner by virtue of—

(a)section 8(1B) of the Caravan Sites and Control of Development Act 1960 (fee for application for site licence conditions to be altered);

(b)section 10(1A) of that Act (fee for application for consent to transfer site licence).

(4) When determining the amount of the new pitch fee, no regard may be had to any costs incurred by the owner in connection with—

(a)any action taken by a local authority under sections 9A to 9I of the Caravan Sites and Control of Development Act 1960 (breach of licence condition, emergency action etc.);

(b)the owner being convicted of an offence under section 9B of that Act (failure to comply with compliance notice).

20 (A1) 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).

(2)Paragraph 18(3) above applies for the purposes of this paragraph as it applies for the purposes of paragraph 18.

Occupier’s obligations

21The occupier shall—

(a)pay the pitch fee to the owner;

(b)pay to the owner all sums due under the agreement in respect of gas, electricity, water, sewerage or other services supplied by the owner;

(c)keep the mobile home in a sound state of repair;

(d)maintain—

(i)the outside of the mobile home, and

(ii)the pitch, including all fences and outbuildings belonging to, or enjoyed with, it and the mobile home,

in a clean and tidy condition; and

(e)if requested by the owner, provide him with documentary evidence of any costs or expenses in respect of which the occupier seeks reimbursement.

22The owner shall—

(a)if requested by the occupier, and on payment by the occupier of a charge of not more than £30, provide accurate written details of—

(i)the size of the pitch and the base on which the mobile home is stationed; and

(ii)the location of the pitch and the base within the protected site;

and such details must include measurements between identifiable fixed points on the protected site and the pitch and the base;

(b)if requested by the occupier, provide (free of charge) documentary evidence in support and explanation of—

(i)any new pitch fee;

(ii)any charges for gas, electricity, water, sewerage or other services payable by the occupier to the owner under the agreement; and

(iii)any other charges, costs or expenses payable by the occupier to the owner under the agreement;

(c)be responsible for repairing the base on which the mobile home is stationed and for maintaining any gas, electricity, water, sewerage or other services supplied by the owner to the pitch or to the mobile home;

(d)maintain in a clean and tidy condition those parts of the protected site, including access ways, site boundary fences and trees, which are not the responsibility of any occupier of a mobile home stationed on the protected site;

(e)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; and

(f)consult a qualifying residents' association, if there is one, about all matters which relate to the operation and management of, or improvements to, the protected site and may affect the occupiers either directly or indirectly.

23The owner shall not do or cause to be done anything which may adversely affect the ability of the occupier to perform his obligations under paragraph 21(c) and (d) above.

24For the purposes of paragraph 22(e) above, 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; and

(iii)states when and where the occupier can make representations about the proposed improvements; and

(b)to take into account any representations made by the occupier about the proposed improvements, in accordance with paragraph (a)(iii), before undertaking them.

25For the purposes of paragraph 22(f) above, to “consult” a qualifying residents' association means—

(a)to give the association at least 28 clear days' notice in writing of the matters referred to in paragraph 22(f) which—

(i)describes the matters and how they may affect the occupiers either directly or indirectly in the long and short term; and

(ii)states when and where the association can make representations about the matters; and

(b)to take into account any representations made by the association, in accordance with paragraph (a)(ii), before proceeding with the matters.

25A (1)The document referred to in paragraph 17(2A) and (6A) 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).

(2)Regulations under this paragraph must be made by statutory instrument.

(3)The first regulations to be made under this paragraph are subject to annulment in pursuance of a resolution of either House of Parliament.

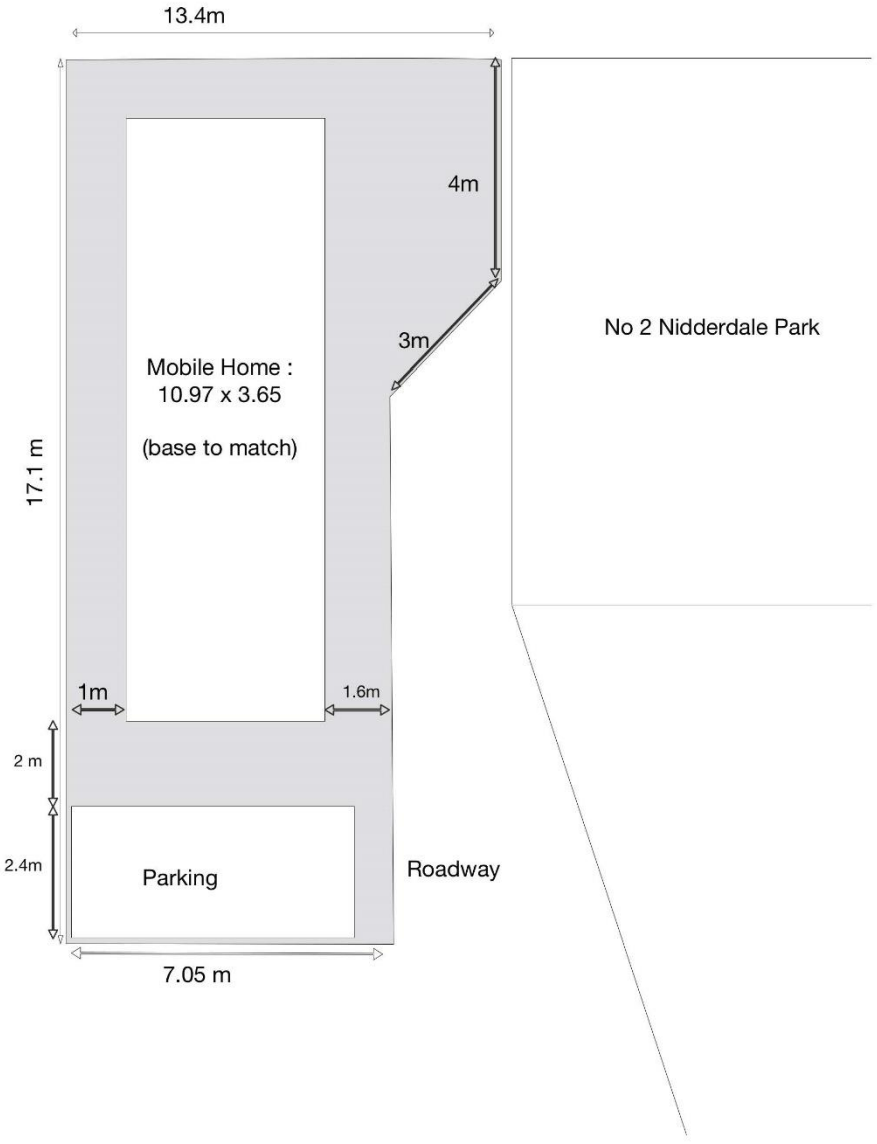
(4)But regulations made under any other provision of this Act which are subject to annulment in pursuance of a resolution of either House of Parliament may also contain regulations made under this paragraph.

Interpretation

29In this Chapter—

- "pitch fee" means the amount which the occupier is required by the agreement to pay to the owner for the right to station the mobile home on the pitch and for use of the common areas of the protected site and their maintenance, but does not include amounts due in respect of gas, electricity, water and sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts;
- "retail prices index" means the general index (for all items) published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figures published by the Board;
- "review date" means the date specified in the written statement as the date on which the pitch fee will be reviewed in each year, or if no such date is specified, each anniversary of the date the agreement commenced; and
- "written statement" means the written statement that the owner of the protected site is required to give to the occupier by section 1(2) of this Act.

Appendix 2: plan of pitch 1



1 Nidderdale Park

Not to Scale