FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	BIR/44UE/PHI/2022/001-003
Properties	**:**	(1) 7 Oak Tree Farm, Juggins Lane, Earlswood, Solihull, B94 5LL
	:	(2) 25 Oak Tree Farm, Juggins Lane, Earlswood, Solihull B94 5LL
	:	(3) 44 Oak Tree Farm, Juggins Lane, Earlswood, Solihull B94 5LL
Applicant	**:**	Mr A Hartley (T/A Hartley Park Homes)
Representative	**:**	Mr M Mullin, Counsel
Respondents	**:**	(1) Mr R Coles and Mrs S Coles (2) Reverend M Andrews and Mrs S Andrews (3) Mr T Crumpton and Mrs J Crumpton
Representative (1)	**:**	Mr C Spiegel
Type of Application	**:**	Pitch Fee Review (2022)
Tribunal Members	**:**	Judge David R Salter R P Cammidge FRICS
Date of Hearing	**:**	3 October 2022
Date of Decision	**:**	**16 December 2022**

DECISION

Decision

The Tribunal determines that the pitch fee for the Properties should increase from the review date of 1 January 2022 in accordance with the Notice dated 24 November 2021 in the amounts detailed below:

a) 7 Oak Tree Farm from £1,514.75 per year to £1,605.64 per year
b) 25 Oak Tree Farm from £1,514.75 per year to £1,605.64 per year
c) 44 Oak Tree Farm from £1,514.75 per year to £1,605.64 per year

Reasons for the Decision

Introduction

1 The Applicant, who trades as Hartley Park Homes, is the owner of Oak Tree Farm Caravan Site, Juggins Lane, Earlswood, Solihull, B94 5LL ('Oak Tree Farm'). This is a residential mobile home park. It is a protected site within the meaning of the Mobile Homes Act 1983 (as amended) ('the 1983 Act'). As intimated above, the Respondents occupy pitches known as 7, 25 and 44 Oak Tree Farm. They do so under the terms of agreements dated 30 March 1987, 15 July 1983 and 1 October 1976 respectively each of which includes in the written statement required by the 1983 Act provisions relating to pitch fee reviews. The Respondents are also subject to the Park Rules that apply to Oak Tree Farm.

2 In each instance, the annual review date of the pitch fee is 1 January. The pitch fee for each of the properties was last reviewed on 1 January 2021. The current pitch fees for the properties are £1,514.75 per year.

3 By Notice dated 24 November 2021 ('the Pitch Fee Review Notice'), the Applicant gave notice to each of the Respondents that he proposed to review their pitch fees from the review date of 1 January 2022. The proposed pitch fee for each of the properties was £1,605.64. The proposed increase related to the increase in the RPI index only (6%).

4 The Respondents did not agree to the proposed increase but they did not make consequential applications to the Tribunal by way of challenge to that increase. Consequently, the Applicant made applications to the Tribunal dated 24 March 2022 in respect of each of the properties for a determination of a new level of pitch fee for those properties. Each of the applications was accompanied by the Applicant's statement, a copy of the pertinent pitch fee notice and letter that had been served by the Applicant, a copy of the relevant written statement under the 1983 Act and evidence relating to the RPI.

5 Directions were issued by the Regional Judge on 29 March 2022. Principally, the Directions provided that the three applications should be consolidated and heard together under Rule 6(3)(b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. In addition, the Directions made provision for the preparation and submission of statements and related documents by the parties to the applications. More particularly, each of the applications and supporting documents were deemed to be the Applicant's statements of case whilst the Respondents were afforded the opportunity to submit statements in response setting out in full their reasons for opposing the proposed new pitch fee to which, in turn, the Applicant might file statements in reply. Further, the

Directions encouraged the Respondents, if possible, to appoint a single representative and to submit a joint statement in response.

6 In the course of time and notwithstanding the imperative in the Directions to contemplate the submission of a joint statement in response, each of the Respondents opted to submit a statement in response to which the Applicant responded in detailed statements in reply.

7 Mr and Mrs Coles appointed Mr Spiegel to act as their representative.

Inspection

8 The Tribunal inspected Oak Tree Farm on 3 October 2022. The Tribunal was joined by the Applicant, Ms J Whittingham (the Applicant's assistant), Mr Mullin and the following Respondents, Mr and Mrs Coles and Mr Crumpton. Mr Carl Spiegel (of 52 Oak Tree Farm) was also present in his capacity as the representative of Mr and Mrs Coles. Mr Crumpton explained that Reverend Andrews and Mrs Andrews were unable to attend the inspection and the subsequent hearing because of other compelling commitments and Mr Crumpton conveyed their apologies to the Tribunal.

9 Oak Tree Farm is situated approximately seven miles to the south west of Solihull town centre and occupies a semi-rural location. It is accessed from a made up but (the Tribunal is advised) unadopted road known as Juggins Lane. The Applicant confirmed to the Tribunal that this access road does not form part of Oak Tree Farm nor is it under his ownership.

10 Oak Tree Farm is licensed to accommodate 65 mobile homes. It is a reasonably regular rectangular shape with a corresponding shaped perimeter road. Pitches are organized around the perimeter with an additional central block of pitches. Some parking is available on certain pitches and there is a relatively large additional parking area near the entrance. The mobile homes are of a mixed age and nature and the size of the pitches vary.

11 The Tribunal undertook a general inspection, walking around the site road and taking note of the common areas, parking facilities, the main car park and the access from Juggins Lane. In the course of its inspection, the Tribunal also, in so far as it was possible to do so, had regard to any material features that had been referred to in the parties' written submissions.

Hearing

12 The individuals who had attended the inspection were also present at the hearing. Mr Mullin presented the Applicant's case, Mr Siegel represented Mr and Mrs Coles and Mr Crumpton set out his and his wife's case.

Relevant Law

13 The relevant law is contained within Part I Chapter 2 of Schedule 1 to the 1983 Act ("the Schedule") and the 2013 Regulations.

14 'Pitch fee' is defined in paragraph 29 of the Schedule as follows:

> "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 and other services, unless the agreement expressly provides that the pitch fee includes such amounts.

15 Paragraph 17(1) of the Schedule provides that the pitch fee shall be reviewed as at the review date and in this regard paragraph 17(2) states that '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'. Paragraph 17(2A) specifies that this notice is of no effect unless it is accompanied by a document that complies with paragraph 25A.

16 Paragraph 25A requires this document to be in the form prescribed by the Secretary of State in regulations. Presently, this is the 2013 Regulations. In the 2013 Regulations, it is stated in paragraph 2 that the document 'shall be in the form prescribed in the Schedule to these Regulations or in a form substantially to like effect.' Further, paragraph 25A provides that, substantively, the document must specify any percentage increase or decrease in the retail prices index calculated in accordance with paragraph 20(A1) (see below, paragraph 17), explain the effect of paragraph 17, specify the matters to which the amount proposed for the new pitch fee is attributable, and refer to various owner's and occupier's obligations.

17 Paragraph 20(A1) states that there is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than the percentage change in the RPI since the last review date, unless this would be unreasonable having regard to paragraph 18(1).

18 Paragraph 18 sets out factors to which 'particular regard' must be had when determining the amount of the new pitch fee and so far as material provides:

> 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…;
>
> (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 the purposes of this sub-paragraph;…

19 Sub-paragraphs 18(1)(aa) and 18(1)(ab) came into force on 26 May 2013.

20 The Upper Tribunal considered the operation of these provisions and the approach to be adopted by the Tribunal in *Vyse v Wyldecrest Parks (Management) Ltd* [2017] UKUT 24 (LC). It is accepted that the following propositions emerge from that decision – the starting point is that there is a presumption that a pitch fee shall not increase or decrease by more than the relevant RPI percentage unless it is unreasonable to do so, the presumption operates unless it is displaced by other competing matters which renders an increase unreasonable and particular regard must be had to the matters at paragraph 18(1) of the Schedule, but other 'weighty matters' may also displace the presumption.

21 However, the Upper Tribunal has not given guidance as to how paragraphs 18(1)(aa) and 18(1)(ab) might be applied and what may constitute a deterioration in the condition of the site or a decrease in the amenity or a reduction in services. In this respect, First-tier Tribunals have provided some pointers. Hence, in relation to paragraph 18(1)(aa), it has

been mooted that a deterioration in the condition or amenity of a site encompasses changes that are long lasting or permanent and affect the 'fabric' of the site rather than changes that are temporary in nature. Further for the purposes of the 1983 Act, the Tribunal is not concerned with the actual condition of the site or the actual amenity of that site, and while the Tribunal may accept that the site has not always been maintained to a standard that might reasonably be expected the question it must determine is whether there has been any deterioration/decrease in the condition or amenity of the site in the relevant period.

22 With regard to paragraph 18(1)(ab), the Upper Tribunal in *Britaniacrest v Bamborough* [2016] UKUT 0144 (LC) commented:

"[24]…paragraph 18(1)(ab) requires the FTT to have regard to any reduction in services the owner supplies to the site or an individual home. That is consistent with the pitch fee being payment for a package of rights provided by the owner to the occupier, including the right to station a mobile home on the pitch and the right to receive services. Where such services are reduced, or the quality diminishes, the Act requires that reduction or deterioration to be taken into account (presumably as a factor justifying either a reduction in the pitch fee or a smaller increase than would otherwise be allowed)".

23 More generally, it would appear that for the RPI presumption to be displaced under the provisions of paragraph 18, the other considerations must be of considerable weight, because as Her Honour Judge Robinson opined in *Vyse* [50], 'If it were a consideration of equal weight to RPI, then applying the presumption, the scales would tip the balance in favour of RPI'.

Submissions

24 The evidence shows that the Applicant seeks a determination by the Tribunal of a level of pitch fee that reflects the increase in the RPI index during the relevant period whilst the Respondents, individually and collectively, accept that, in principle, the Applicant has the right to review the pitch fee annually, do not challenge the legitimacy of the Notice dated 24 November 2021 or question that the RPI index increased by 6% during the relevant period.

25 Nevertheless, the evidence also reveals that, in the absence of a joint response from the Respondents, each of the Respondents raised issues for the attention of the Tribunal that they regarded as pertinent to the pitch fee review for 2022 and explained their respective reasons for failing to pay the RPI increase in the pitch fee proposed by the Applicant.

In this respect, the Applicant contends that no evidence has been submitted by any of the Respondents with a view to establishing that there is either any deterioration in the condition and/or in the amenity of Oak Tree Farm or any reduction in the services provided by himself or deterioration in the quality of those services that would warrant any departure from the RPI increase sought. Consequently, the Applicant considers that such issues are irrelevant to the pitch review. Nonetheless, he expressed his willingness to address those issues and did so, but only without prejudice to his articulated contention.

26 For ease of treatment, the afore-mentioned issues raised by each of the Respondents are set out sequentially (starting with those raised by Mr and Mrs Coles) along with the Applicant's specific responses to each of those issues (see, paragraphs 27-64).

Respondent (1) - Mr and Mrs Coles

<u>Conifer tree on 8 Oak Tree Farm</u>

27 Mr and Mrs Coles informed the Tribunal that the issue relating to this tree that had persisted for several years began with a conversation between themselves and the Applicant during which they asked the Applicant if they could remove the very high conifer tree growing in their neighbour's plot (8 Oak Tree Farm). Mr and Mrs Coles stated that the Applicant gave his permission and then in accordance with the Park Rules they asked the Applicant for help. Such help was not forthcoming. Mr and Mrs Coles explained that the significance of this tree is that it was so high that it took the light from the lounge of their mobile home and in windy conditions it interfered with their television reception and denied access to the internet thereby precluding use of their computer.

Mr and Mrs Coles continued that following the initial exchanges with the Applicant they obtained the permission of their neighbour, Ray, to carry out work on the tree. Thereafter, they asked the Applicant if they could either lop or remove the tree and if the Applicant could meet the cost bearing in mind that they contributed financially towards the maintenance of Oak Tree Farm or, alternatively, whether John, who is member of the Applicant's maintenance team, could lop the tree. Mr and Mrs Coles added that they also paid a fee for a visit from an engineer from Sky with a view to investigating whether moving their aerial would eradicate the problems they had been experiencing. The Sky engineer told them that the tree was interfering with the signal and without work on the tree the signal would continue to be compromised.

Mr and Mrs Coles also informed the Tribunal that they told the Applicant that whilst they understood the role of tree surgeons in carrying out work of the type required they could not afford to pay for their services. In light of this, Mr and Mrs Coles stated that they were contacted by the Applicant's assistant, Jo Whittingham, who indicated that the Applicant needed 'information as to who was going to cut the tree, how many centimetres, where are you cutting it, what are you standing on and what tools are you going to use' and required 'before and after' photographs of the tree, and informed them to forward the information and photographs to the Applicant after which he would decide 'in time' what course to take. Mr and Mrs Coles admitted they did not provide the requested information or photographs because 'we knew it would take weeks or months for decision to be made and we knew he would say no'.

Mr and Mrs Coles told the Tribunal that over time the problems associated with the tree had seriously affected the health of Mrs Coles, particularly her mental health, and the harmony of their marriage. Ultimately, therefore, they had to lop the tree themselves and Mr Coles did so at the behest of Mrs Coles. In this respect, Mr and Coles accepted that Mr Coles did a 'bad job' having undertaken the lopping 'late in the evening in the dark', but they felt that they had to do something. Mr and Coles told the Tribunal that they received a letter from the Applicant a few weeks later in which the Applicant said that their lopping of the tree was a breach of contract that they would be required to remedy but only in conjunction with a tree surgeon and with the Applicant's approval.

Mr and Mrs Coles presented in evidence photographs of the tree, one taken by them and the other two by the Applicant. They suggested that one photograph taken of the tree by the Applicant post-lopping 'looked like we had severed the tree in half and hacked it to death' which was not the case.

28 The Applicant told the Tribunal that Mr and Mrs Coles in an e-mail dated 17 October 2021 sought permission from him to cut back a conifer tree growing on 8 Oak Tree Farm, their neighbour's (Mr Jones) pitch, and that in his response sent on 18 October he explained 'the process the Respondents would need to follow, if they wished to do works to the tree, making reference to the relevant Park Rules, including the instruction of an ARB approved contractor should they decide to carry out the works'. The Applicant added that Mr and Mrs Coles then indicated that they could not afford to instruct an ARB

contractor. He adduced in evidence copies of the correspondence that conveyed this information.

The Applicant also related that, notwithstanding the advice on the required process that he had proffered, Mr and Mrs Coles proceeded to cut back the conifer tree and without either his agreement or the agreement of Mr Jones. In the Applicant's opinion, Mr and Mrs Coles are by their actions in breach of the Park Rules in that they did not obtain consent to carry out works on the tree, that the tree has been damaged to such an extent that it is unsightly, and advice received from his ARB approved contractor suggested that 'the conifer tree will never recover and as such will remain in its current condition should it survive'. The Applicant opined that this is a matter that might be determined under section 4 of the 1983 Act.

Maintenance of trees in common areas of Oak Tree Farm

29 Mr and Mrs Coles informed the Tribunal that the Applicant professes to care about Oak Tree Farm. However, they contended that the Applicant's treatment of some of the trees on Oak Tree Farm suggests otherwise. In this respect, Mr and Coles stated that to the best of their knowledge the Applicant had cut down two 'tall and beautiful' ancient trees in the course of constructing five mobile homes on Oak Tree Farm. Further and notwithstanding the Applicant's insistence that occupiers consult tree surgeons, the Applicant uses his maintenance team to carry out work on trees. Mr and Mrs Coles cited an instance that occurred around three years ago when a member of the Applicant's maintenance team (John) came to Oak Tree Farm and pollarded trees situated on the circumference of the site leaving the resultant wood and branches in a skip rather than using a shredder. Further, Mr and Mrs Coles claimed that other work undertaken by John had left a tree on Oak Tree Farm in a worse condition than the conifer tree on 8 Oak Tree Farm that had been lopped by Mr Coles and they adduced in evidence a photograph dated March 2022 of a tree that they described as 'hacked' by the Applicant's maintenance team.

30 The Applicant informed the Tribunal that he instructs a qualified tree surgeon to inspect trees growing on common areas within Oak Tree Farm and follows his advice. Should maintenance works be required they are included in the Applicant's maintenance programme. The Applicant added that, similarly, where works to a tree are necessary for a reason other than maintenance, for example, the cutting back of the tree on 43 Oak Tree Farm he follows the advice of the tree surgeon and any work carried out is done in a manner which does not cause permanent damage. In this latter respect, the Applicant denied the suggestion by Mr and Mrs Coles that he had undertaken works on a tree which left that tree in a condition which resembled that of the conifer tree cut back by Mr and Mrs Coles.

Further, the Applicant refuted the claim made by Mr and Mrs Coles that he had cut down two ancient trees without justification. These trees were not located on common parts of Oak Tree Farm but within pitches that belonged to the Applicant, neither was subject to a tree preservation order and the work carried out involved the removal of branches that were overhanging the respective mobile homes.

The Applicant also commented that he was not responsible for maintaining trees on individual pitches unless those trees were in existence when Oak Tree Farm was developed. He observed that conifers are not native to Oak Tree Farm.

Condition of homes owned by the Applicant

31 Mr and Mrs Coles claimed that the Applicant told the son of a deceased occupier to leave Oak Tree Farm even though that individual was entitled to stay.

Further, Mr and Mrs Coles alleged that most of the mobile homes on Oak Tree Farm that are let by the Applicant are in a 'disgusting state', internally and externally. They also drew the Tribunal's attention with the assistance of photographs, to what they regarded as the derelict condition of 43 Oak Tree Farm following the destruction of the mobile home that was situated on that pitch by the Applicant in March 2022.

32 The Applicant denied that he had ever asked an occupier to leave Oak Tree Farm and intimated that Mr and Mrs Coles had not submitted any evidence to support their allegation that he had done so.

Further, the Applicant asserted that the homes on Oak Tree Farm that he owned or rented out are all maintained to a satisfactory standard. As to the 'derelict' plot (43 Oak Tree Farm), the Applicant explained that this pitch has been cleared of an old mobile home which he had re-purchased from an occupier and that it will be prepared for a new home. The Applicant submitted that, presently, 43 Oak Tree Farm is safe and tidy as shown in a photograph taken on 7 June 2022 which he adduced in evidence.

Tribunal Application relating to Mr Flavin

33 Mr and Mrs Coles referred the Tribunal to an application to the Tribunal relating to Mr Flavin which concerns a disputed car parking space.

34 The Applicant indicated that the matter raised in this application was made under section 4 of the 1983 Act.

Electricity meter housing

35 Mr and Mrs Coles stated that Mrs B Croisson of Western Power (South Midlands) offered to remove all the old broken housing boxes and dilapidated electrical equipment attached to the electricity poles at Oak Tree Farm that are 'rusting and falling apart and rehouse them properly'. They added that Mrs Croisson sent the Applicant designs to follow in erecting housing sheds, but nothing has been done.

36 The Applicant opined that the solution to replacing meter housing boxes is not as straightforward as Mr and Mrs Coles suggest. He accepted that he was responsible for maintaining those parts of Oak Tree Farm for which the occupiers are not impliedly responsible, and for maintaining any service that he supplies to the pitch or mobile home. However, the Applicant stated that he does not supply electricity to occupiers and that, therefore, it was incumbent on occupiers to negotiate a contract for the supply of electricity to their homes with a supplier.

Within this context, the Applicant indicated that the responsibility for the meter and its housing pertaining to each pitch is the responsibility of the individual supplier of electricity. Therefore, the replacement of housing boxes is a matter for each occupier to raise with their supplier. Nevertheless, the Applicant informed the Tribunal that he had approached Western Power Distribution (WPD), on behalf of occupiers, about this matter and that he had been told, first, that the current position of meters on Oak Tree Farm was safe and, secondly, that any replacement of existing meters would involve the installation of new meters against a wall. These points were made by WPD in a letter to the Applicant dated 22 May 2019, a copy of which was adduced in evidence by the Applicant. The Applicant added that, notwithstanding the position outlined by WPD, three meter housing boxes (one of which was a new white housing box) were attached to 'wooden electrical poles' in June 2019 and a further new meter housing box was installed in May 2021 by way of replacement of an old existing box again without following the approach advocated by WPD or through any involvement with him. In his opinion, the installation

of these boxes showed that occupiers, other than Mr and Mrs Coles, had contacted their suppliers and made arrangements for those installations.

Mobile Homes Act 2014

37 Mr and Mrs Coles referred to the Mobile Homes Act 2014 which they stated relates to 'telling lies to any local government offices, tribunals or people of law'. In their opinion, there are so many errors in the Applicant's words when he speaks of maintaining Oak Tree Farm to a high standard that they are akin to lies. Further, Mr and Mrs Coles expressed the view that the Applicant takes people to the Tribunal when they object to what he has to say.

38 The Applicant stated that he could find no reference to the Mobile Homes Act 2014 and he denied that he told lies to government offices, Tribunals or 'people of the law'. He added that it was important for the park rules at Oak Tree Farm to be adhered to and that this could be achieved in conjunction with occupiers or, if need be, through application to the Tribunal. Such enforcement was essential to ensure compliance with those rules and to maintain the pleasantness of Oak Tree Farm.

Development works

39 Mr and Mrs Coles referred to the Applicant's construction of five new mobile homes at Oak Tree Farm and intimated that, in their opinion, the work that was carried out led to the removal of 'beautiful pastures and flowers' and was 'signed off' by Stratford-upon-Avon District Council whilst the sites were 'still dangerous with holes'. Mr and Mrs Coles added that this work also involved the cutting down of two ancient trees (see above, paragraph 29 and the Applicant's response to this particular statement in paragraph 30).

40 The Applicant indicated that the statement by Mr and Mrs Coles about development works was unclear and unsupported by evidence. He added that all development and siting works at Oak Tree Farm are carried out in accordance with any relevant planning conditions set out in planning permissions granted in respect of Oak Tree Farm and in compliance with any relevant site licence conditions.

Water pressure

41 Mr and Mrs Coles submitted that the water pipes serving Oak Tree Farm are ancient - Stratford-upon-Avon District Council is aware of this and Mr Riddle of the Council has described the pipes as at the end of their lives. They also informed the Tribunal that there is often low water pressure at Oak Tree Farm and, consequently, the flow of water, especially when taking showers, is unreliable.

42 The Applicant informed the Tribunal that following queries raised by occupiers about the water pressure he met with representatives of the water authority (Severn Trent) in April 2021. Thereafter, Severn Trent conducted a review of the water pressure at Oak Tree Farm. In the words of the Applicant he was informed that 'the water pressure to the Park was sufficient to cope with the day to day demands of the occupiers, however it is possible that the pressure will drop if a significant number of occupiers demand water at the same time'. The Applicant indicated that he had also been advised that 'any increase in water pressure to counter the effect of high demand may damage installations in the homes such as the boiler'. The Applicant adduced in evidence a copy of a letter dated 21 April 2021 written by Severn Trent to Ms Whittingham in which the outcome of its review of the water pressure at Oak Tree Farm is outlined.

The Applicant observed that there was no evidence of a failure on his part to maintain the water supply to Oak Tree Farm or to suggest that it has 'deteriorated in condition' thereby giving rise to a breach of the relevant conditions in the site licence.

Michael – 1 Oak Tree Farm

43 Mr and Mrs Coles asserted that the Applicant destroyed 'the home of Michael (with Aspergers) while he was still in it and his garden and conifers around it in one foul swoop'.

44 The Applicant stated that the individual referred to by Mr and Mrs Coles as Michael had been a tenant of a mobile home on Oak Tree Farm that he (the Applicant) owned. At Michael's request, the Applicant had dealt with Michael's mother who led the Applicant to believe that Michael struggled with his mental health. The Applicant indicated that he did not know that Michael had been diagnosed with Asperger's syndrome. The Applicant explained that, in the course of time, Michael's mother gave notice of Michael's intention to vacate 1 Oak Tree Farm. This happened to coincide with the removal of a hedge on this pitch to which Michael consented through his mother. The Applicant pointed out that Michael was not in occupation of the mobile home when it was removed from Oak Tree Farm.

Juggins Lane

45 Mr and Mrs Coles adduced in evidence a copy of a letter written by the Applicant and dated 19 April 2011 to Mr Eaborn of the Oak Tree Farm Residents' Association showing, amongst other things, that the Applicant had resurfaced Juggins Lane in 2010. They added that the Applicant had also promised to undertake other road maintenance with a view to making the road safe. Mr and Mrs Coles opined that it was possible for 'reverse possession' to be taken of 'uncharted roads' such as Juggins Lane and for ownership to be acquired in twelve years.

46 The Applicant stated that he did not own Juggins Lane which is an unadopted road. The Applicant also indicated that he had no intention of taking possession of this road with a view to establishing title by adverse possession. In previous years, he had been willing to undertake works on Juggins Lane provided occupiers were agreeable to sharing the cost of such works, but no agreement from occupiers had been forthcoming.

Site licence

47 Mr and Mrs Coles stated that the law requires the site licence to be visible in its entirety to residents. This is not the case with the licence for Oak Tree Farm which is 'dirty, muddy and dusty.'

48 The Applicant informed the Tribunal that the site licence is displayed, clearly, on the noticeboard at Oak Tree Farm and exhibited in evidence a photograph of that licence on the noticeboard that was taken on 21 January 2022. Further, the Applicant intimated that a copy of the site licence could be found on the Hartley Parks website.

Respondent (2) - Reverend Andrews and Mrs Andrews

Breakdown of pitch fee and costs incurred by the Applicant in maintaining Oak Tree Farm

49 Reverend Andrews and Mrs Andrews indicated that in the absence of 'a breakdown of what they pay for maintenance and pitch fee separately' which they had requested from the Applicant, as they were legally entitled to do, they were not willing to pay the pitch fee

increase. Reverend Andrews and Mrs Andrews intimated that such a request had also been submitted to the Applicant by the Residents' Association and Mr Paul Reid of Stratford-upon-Avon District Council.

50 The Applicant acknowledged in an email dated 1 February 2022 sent to Reverend Andrews and Mrs Andrews, which he adduced in evidence, that they were entitled to request and that he was obliged to provide documentary evidence in support of any new pitch fee, any charges for gas, electricity, water, sewerage or other services payable by an occupier of a pitch to the owner under the agreement and any other charges, costs or expenses payable by such an occupier to the owner under the agreement. However, he stated that these categories of documents do not include an obligation on his part to provide an explanation of sums spent on maintaining Oak Tree Farm, save in circumstances where occupiers were required to pay a pitch fee increase that exceeded the increase in the RPI index because of the attribution to occupiers of costs incurred in carrying out improvements. The Applicant added that whilst he had carried out improvements to Oak Tree Farm in the recent past he had borne the cost of those improvements. In this respect, the Applicant intimated that he had incurred costs in excess of £200,000.00.

The Applicant stated that he had not received a request from either the Residents' Association or Mr Reid for a breakdown of costs relating to maintenance or pitch fee.

Respondent (3) - Mr and Mrs Crumpton

Drainage

51 Mr and Mrs Crumpton informed the Tribunal that there was no drainage system that served 44 Oak Tree Farm. This was the case notwithstanding a verbal agreement entered into with the Applicant in 2019 that emanated from a meeting between the Applicant, Mr and Mrs Crumpton and Mr Spiegel and by virtue of which the Applicant agreed, amongst other things, to 'install drainage on the perimeter road outside No 44'. This promise has not been honoured by the Applicant. Mr and Mrs Crumpton added that this agreement had been instrumental in their willingness to accede to the proposed new 2019 pitch fee to which, initially, they had not agreed.

52 Further, Mr and Mrs Crumpton referred to a letter dated 9 March 2022 sent to them by the Applicant, a partial copy of which was adduced in evidence, in which it is stated '[W]hen the new road was installed adjacent to pitch 44, a French Drain system was installed to deal with the surface water from the road'. They refute any suggestion that a French drain system has been installed by the Applicant on the road outside 44 Oak Tree Farm. If such a system existed, Mr and Mrs Crumpton required the Applicant to provide 'evidence and plans of this drainage system', the date upon which it was installed and information about the arrangements that are in place for its maintenance and cleaning.

53 During the inspection, Mr Crumpton drew the Tribunal's attention to a small trial hole (approximately, 300mm x 300mm x 300 mm, although the same was not measured) that he had excavated in the front lawn of 44 Oak Tree Farm where it was immediately adjacent to the kerb of the perimeter road in order to reveal that there was no drainage system in place.

Mr and Mrs Crumpton also told the Tribunal that the consequence of the absence of a drainage system is that following heavy rainfall there is standing water on the perimeter road where it runs alongside 44 Oak Tree Farm, and, on occasions, flooding of 44 and 45 Oak Tree Farm. The flooding of 44 Oak Tree Farm has led to the paving slabs on its driveway becoming uneven and unstable. Mr and Mrs Crumpton presented an undated

photograph in evidence that showed standing water on the perimeter road alongside 44 Oak Tree Farm.

54 The Applicant informed the Tribunal that in October 2012 he installed a new road, kerbs and drainage between 26 and 30 Oak Tree Farm. The drainage was provided by a French Drain system which comprises a trench filled with gravel that allows water to drain away naturally (soakaway) into the ground which runs from 43 to 45 Oak Tree Farm.

55 The Applicant acknowledged that he had attended a meeting with Mr and Mrs Crumpton and Mr Spiegel on 13 June 2019 at which the perimeter road drainage system, together with other matters pertaining to the maintenance of Oak Tree Farm, was discussed. In this respect, the Applicant informed the Tribunal that the meeting was held with a view to resolving disputes with Mr and Mrs Crumpton and Mr Spiegel relating to the 2019 pitch fee review proposal to which they had withheld their agreement and which, in turn, had led the Applicant to apply to the Tribunal for the determination a new level of pitch fee (BIR/44UE/PHI/2019/002-006). The Applicant recorded the matters that were covered in that meeting in a letter dated 14 June 2019 which was sent to Mr and Mrs Crumpton and Mr Spiegel. A copy of this letter was adduced in evidence by the Applicant and includes the following agreed paragraph relating to the perimeter road drainage system:

"As you know, I instructed a land surveyor to carry out a topographical survey on 4 June 2019. The survey was necessary for my architect, drainage consultants and resurfacing contractors to create a plan that ensures that the measurements and levels are accurate so that an adequate draining system can be designed and installed."

The Applicant denied, as alleged by Mr and Mrs Crumpton, that there was also a verbal agreement made at the meeting relating to the installation of a drainage system by him outside 44 Oak Tree Farm and added that he did not agree to do works to install such drainage verbally or otherwise. However, the Applicant indicated that in the months following the meeting he carried out various works alluded to in the letter of 14 June 2019, including the installation of LED streetlights, tarmacking and work on a section of the road between pitches 19-26 during which a French Drain was put in place (as shown in a photograph that he presented in evidence). The Applicant stated that these works were well received and, as a consequence, the withdrawal of the above application was granted, on request, by the Tribunal.

56 More generally, the Applicant informed the Tribunal that Mr and Mrs Crumpton first raised the issue of flooding at 44 Oak Tree Farm along with a claim that water flows from the roadway had destabilised their slabbed driveway in a letter signed by Mr Crumpton and dated 31 December 2018. The Applicant adduced a copy of this letter in evidence. Following receipt of that letter, the Applicant stated that he undertook a period of monitoring, initially, between 21 January 2019 and 6 March 2019 and, thereafter, continued to monitor the situation until 13 June 2022. He presented in evidence a series of dated photographs (30 in total) taken on various days of monitoring falling within the periods 21 January 2019 – 6 March 2019, 18 March 2019 – 13 June 2019, and 11 February 2022 – 5 March 2022 together with a photograph dated 12 November 2021. Further, the Applicant explained:

"Usually, I would attend the Park the day after a period of heavy rainfall and assess the water levels on the road outside the Respondent's pitch as well as the pitch itself. The Respondents described the surface water levels as flooding so I would have expected to see considerable surface water remaining upon my arrival at the Park. However, I could not find any evidence of flooding on pitch 44 or on the road itself."

In a letter dated 6 March 2019 (a copy of which was presented in evidence), the Applicant told Mr and Mrs Crumpton that since receiving Mr Crumpton's letter he had regularly

monitored drainage on Oak Tree Farm and at their pitch. He had found that the drainage was adequate. Moreover, it was his opinion that the driveway slabs, which they alleged had been destabilised by flooding, had been inappropriately laid and that this had resulted in them lifting over time.

The Applicant also alluded to an e-mail (accompanied by four photographs) sent to him by Mr and Mrs Crumpton on 31 October 2021 in which they referred to flooding 'on the pathway outside their pitch during torrential heavy rainfall.' The Applicant adduced this e-mail and the photographs in evidence. He opined that the photographs had little evidential value as they related to the pathway running from 45 to 50 Oak Tree Farm rather than the pathway alongside 44 Oak Tree Farm. Further, the Applicant informed the Tribunal that he visited Oak Tree Farm early the next morning (1 November 2021). He took photographs of the pathway outside 44 Oak Tree Farm which he presented in evidence. In the Applicant's opinion, these photographs showed that despite the heavy rainfall in the previous twenty four hours any standing water had dissipated.

In addition, the Applicant informed the Tribunal that, amongst other things, the issue of drainage at 44 Oak Tree Farm was raised again by Mr and Mrs Crumpton, first, in an e-mail dated 12 November 2021 to the Applicant (a copy of which was presented in evidence) into which Paul Reid, Environmental Health and Licensing Team Manager, of Stratford-upon-Avon District Council was copied, and, secondly, following an inspection relating to the site licence conditions pertaining to Oak Tree Farm by Mr Reid and his colleague Vikki Goodman, the Lead Licensing Officer of the Council, on 10 December 2021. The Applicant stated that the Licensing Officers had considered the drainage system at Oak Tree Farm, including 44 Oak Tree Farm, as part of their inspection and he told the Tribunal that they 'found it to be adequate, concluding that no further works were required in compliance with the site licence conditions'. In the report of their inspection, which the Applicant presented in evidence, the Licensing Officers advised Mr and Mrs Crumpton that they should evidence the flooding at 44 Oak Tree Farm by taking photographs that were date stamped and then pursue the matter with the Applicant.

57 In furtherance of his position that there was no flooding issue, the Applicant made the following points. First, Mr and Mrs Crumpton have not provided photographic evidence to him that shows flooding on 44 Oak Tree Farm even though there had been 'significant and torrential rainfall' between December 2021 and the date of his statement in reply/witness statement, namely 1 July 2022; he dismissed the photograph which Mr and Mrs Crumpton presented in evidence that appeared to be of a section of road bordering 44 Oak Tree Farm during a period of heavy rainfall as showing 'rainwater moving quickly down the road which is what I would expect it to do.' Secondly, the Applicant stated that since raising the matter on 31 December 2018 Mr and Mrs Crumpton 'have never provided me with any evidence, photographic or otherwise, that would suggest there is a flooding issue at pitch 44.' Thirdly, the Applicant observed:

"The surface water drainage on the Park has been improved considerably by me over the last 10 years which has improved the movement of surface water during and after rainfall. There has been no physical change to the area around the Respondents' pitch which may have given rise to an accumulation of water, in excess of what might have been experienced in previous years. It is reasonable to expect standing water after periods of heavy rain but this in my view is not flooding."

58 The Applicant also intimated that, notwithstanding the position that he had adopted and with a view to reaching an amicable settlement, he had written to Mr and Mrs Crumpton on 20 June 2022. A copy of that letter was adduced in evidence in which the Applicant wrote:

"We are presently at an impasse. That said and despite the fact that I do not accept that pitch 44 floods or that any surface water on pitch 44 is the result of a failure on my part to maintain the site, I am prepared to install a 'French Drain' involving an excavation of a trench approximately 300mm wide and 400mm deep, in to which a membrane is laid and then filled with pea gravel, covered with soil and grass seed."

The Applicant stated that this offer was not accepted.

Breakdown of pitch fee and costs incurred by the Applicant in maintaining Oak Tree Farm

59 Mr and Mrs Crumpton submitted that the contract between themselves and the Applicant gave them the right to 'ask the Applicant to send in writing a breakdown of what monies he takes from us each month and what is spent on site fees and maintenance on the site to the benefit of the residents'. They suspected that 'very little money' is spent by the Applicant to benefit the residents.

60 The Applicant opined that such a breakdown was neither a factor to which the Tribunal was obliged to have regard under paragraph 18(1)(aa) nor was it a factor falling outside that paragraph which the Tribunal might, nevertheless, take into account. Accordingly, the Applicant submitted that the absence of such a breakdown is not a valid reason for Mr and Mrs Crumpton withholding their agreement to the proposed new pitch fee.

43 Oak Tree Farm

61 Mr and Mrs Crumpton informed the Tribunal that following the Applicant's acquisition (they believed in early 2021) of this pitch, which adjoins 44 Oak Tree Farm, the Applicant, initially, left 'this property empty and the garden overgrown with the shed and the greenhouse overgrown with weeds and the garden strewn with rubbish'. Subsequently, the Applicant demolished the mobile home (they believed in early April 2022) and 'left the site in a worse condition than before the demolition'. Mr and Mrs Crumpton adduced in evidence several undated photographs of 43 Oak Tree Farm. In their view, this was indicative of the Applicant's 'slap hazard way of running the park when it's his properties'.

Mr and Mrs Crumpton added that 43 Oak Tree Farm is 'a rat infested tip'. They had taken steps with a view to eradicating the rats, but the continuing presence of the rats poses a serious threat to health, and, especially, to Mrs Crumpton who suffers from a medical condition that impairs her immune system.

In light of these circumstances, Mr and Mrs Crumpton stated that Mrs Crumpton stays, regularly, with her daughter, and, hence, away from her home, 44 Oak Tree Farm.

Mr and Mrs Crumpton also alerted the Tribunal to what they regarded as inconsistency on the part of the Applicant in his approach to tree surgery on Oak Tree Farm in that he required occupiers of mobile homes on Oak Tree Farm not to undertake arboreal work on their pitches without consulting tree surgeons (as in the case of Mr and Mrs Coles) whilst he used his maintenance team to carry out such work, for example, on a tree growing on 43 Oak Tree Farm.

62 The Applicant informed the Tribunal that the mobile home that was located on 43 Oak Tree Farm had been demolished and removed. He was the owner of that mobile home and during his ownership it was maintained in a neat and tidy condition.

With regard to the rodent activity raised by Mr and Mrs Crumpton, the Applicant told the Tribunal that this was investigated by Paul Reid and Vikki Goodman during the above-

mentioned inspection of Oak Tree Farm on 10 December 2021 (see above, paragraph 56). He referred the Tribunal to the section in the Licensing Officers' report headed 'No. 43 – Rodent activity coming from vacant property' in which it is stated that Mr Reid 'assessed the area and could not see any sign of rodent activity'.

The Applicant stated that work on trees at Oak Tree Farm was only undertaken by his maintenance staff after he had taken advice from a consultant arborist. This included the cutting back of some branches of a tree by 43 Oak Tree Farm which was necessary to enable the removal of the mobile home on that pitch. He also rejected any suggestion that the work of his maintenance team on this tree bore any comparison with the actions taken by Mr and Mrs Coles who 'failed to take professional advice and carried out works to a tree that does not belong to them, which have resulted in damage to a conifer that will never recover'.

Request for a skip at 27 Oak Tree Farm

63 Mr and Mrs Crumpton intimated that whilst the Applicant had brought a skip onto 43 Oak Tree Farm and allowed skips on other pitches he had refused to allow a skip on 27 Oak Tree Farm.

64 The Applicant denied that he had received a request for a skip at 27 Oak Tree Farm. He added that if he had received such a request his consent would not have been unreasonably withheld.

Decision

65 The Tribunal considered, carefully, the evidence, written and oral, presented by the parties.

66 During the 12 month period applicable to this review, the RPI rose by 6% and this is the increase which the Applicant says should be applied to the existing pitch fees to determine the new pitch fee. The Applicant indicated in his evidence that he was not, therefore, seeking through this pitch fee review to recoup from the Respondents or other pitch owners any of the costs he had incurred in recent years in making improvements to Oak Tree Farm.

67 In each instance, the Respondents explained, initially, to the Applicant and then to the Tribunal, their respective reasons for not paying the increase in the pitch fee sought by the Applicant and, hence, as a consequence, their continued payment of the amount of the pitch fee that was agreed in 2021. However, those reasons did not include a challenge to either the formalities associated with the pitch fee review or to the correctness of the RPI percentage of 6%. Further, the Respondents did not, individually or collectively, apply to the Tribunal to dispute the proposed pitch fee increase.

68 For the purposes of the 1983 Act, the question for the Tribunal is whether there is evidence that, in the Tribunal's opinion, rebuts the presumption that the pitch fee be increased on the basis of the increase in the RPI index. In this respect, the nature of the evidence presented to the Tribunal requires particular regard to be paid to paragraph 18(1)(aa) and paragraph 18(1)(ab). Here, the issue is not the actual condition of Oak Tree Farm, nor, indeed, the actual amenity of Oak Tree Farm. In short, it is whether there has been any **deterioration** in the condition or **decrease** in the amenity of Oak Tree Farm or any **reduction** in services supplied to Oak Tree Farm and any **deterioration** in the quality of those services, and, if the Tribunal so finds, whether it would, thereby, be unreasonable for the pitch fee to be increased on the basis of the increase in the RPI index.

69 In this context, 'amenity' means the quality of being agreeable or pleasant and so the Tribunal must look at any decrease in the pleasantness of Oak Tree Farm or those features of Oak Tree Farm which are agreeable from an occupier's perspective.

70 Against this backdrop, the Tribunal comments on the issues raised by the Respondents and the Applicant's responses thereto as follows:

Conifer tree on 8 Oak Tree Farm

71 This is a matter that arose out of a sequence of events which led for what Mr and Mrs Coles believed to be good reasons to Mr Coles lopping this conifer tree. Mr and Mrs Coles accept that Mr Coles' action was taken without following the guidance given to them by the Applicant about lopping trees (see above, paragraph 28). Consequently, the responsibility for the somewhat unsatisfactory outcome of this lopping (as shown in the photographs presented in evidence and as witnessed by the Tribunal during its inspection) lies with Mr and Mrs Coles. Principally, therefore, this is not a matter that falls within the present remit of the Tribunal in that in making its determination it must have regard to actions of the *Applicant*, notably, of course, those set out in paragraph 18.

Maintenance of trees in common areas of Oak Tree Farm

72 The evidence shows that there is some disagreement between Mr and Mrs Coles and the Applicant about the location of certain trees, that is, whether they are growing in common areas or within pitch boundaries and the nature and extent of the limited arboreal works undertaken by the Applicant's maintenance team. During its inspection, the Tribunal took note of the condition of trees growing in what it perceived to be common areas and for which the parties accept the Applicant is responsible. In this respect, whilst the Tribunal acknowledges that some of the works undertaken could have been carried out in the eyes of some with greater sensitivity the outcome of those works does not amount to a deterioration or decrease in the condition or amenity of Oak Tree Farm.

Condition of homes acquired by the Applicant (including the condition of 43 Oak Tree Farm)

73 The former of these issues was raised by Mr and Mrs Coles and the latter by both Mr and Mrs Coles and Mr and Mrs Crumpton.

74 In the former respect, Mr and Mrs Coles assert that the homes acquired by the Applicant, externally and internally, are in a 'disgusting state'. However, they did not provide any evidence in support of this contention (other than the photographs of 43 Oak Tree Farm). Suffice it to say, the Tribunal's inspection of Oak Tree Farm did not include an inspection of the interior of any mobile home. Otherwise, the Tribunal was satisfied as a result of its external inspection that mobile homes on Oak Tree Farm were maintained to a reasonable (and often higher) standard.

As to 43 Oak Tree Farm, the views of Mr and Mrs Coles and Mr and Mrs Crumpton, as represented in their evidence, are self-evident, and in respect of which the latter have a particular interest bearing in mind that they live next to this pitch. Their respective undated photographic evidence shows the condition of this pitch at different times. The photograph submitted by Mr and Mrs Coles of the exposed base following the demolition and removal of the mobile home surrounded by numerous and various items of debris is particularly striking. However, it is true to say that at the time of the Tribunal's inspection much of this debris had been removed and that, generally, the pitch was tidier than in the photographs presented in evidence by Mr and Mrs Coles and Mr and Mrs Crumpton and more akin to the condition of the pitch shown in the photograph dated 7

June 2022 that is adduced in evidence by the Applicant. This improvement in the condition of the pitch might be expected to contribute, in part, towards allaying the concerns expressed by Mr and Mrs Crumpton about rodent activity on the pitch (concerns that remain notwithstanding the fact that neither Mr Reid of Stratford-upon-Avon District Council nor the Tribunal witnessed any such activity during their respective inspections of Oak Tree Farm), and these concerns may, otherwise, be further alleviated, prospectively, by regular monitoring of the pitch and the implementation of such measures as may be necessary to control any such activity.

Regardless of the enhanced tidiness of the pitch, the removal of the mobile home, without the proximate installation of a mobile home by way of replacement, leaves an unprepossessing exposed base. In his evidence, the Applicant told the Tribunal that the mobile home on this pitch, which he had acquired from an occupier, was old and that it had been removed by him with a view to preparing the pitch for a new mobile home. Such preparatory work may take time to undertake as has proved to be the case in this instance. In the meantime, this transitory 'holding' position holds sway, but it is one that it is not in the interests of the Applicant either in the immediate guise of the occupier of the pitch or in his capacity of site owner to prolong. In this circumstance, The Tribunal finds, should this inter-occupier issue be regarded as falling within its remit, that the intermediate position between 'old' and 'new' that subsists on this pitch cannot be regarded as being permanent or long lasting in its impact on the 'fabric' of Oak Tree Farm, and, thereby, amount to a deterioration in the condition or a decrease in the amenity of the site.

Application before the Tribunal relating to Mr Flavin

75 This is not a matter upon which this Tribunal can comment although it would appear from the evidence that, in any event, the subject matter of this application is not germane to the resolution of the issue that this Tribunal has been constituted to determine.

Electricity meter housing

76 The Applicant states in his evidence that he does not supply electricity to occupiers and that it is the responsibility of occupiers to negotiate a contract for the supply of electricity to their pitches. Clearly, he is not privy to the terms of such contracts. However, it would appear from the Applicant's reference to the replacement of several housing boxes at Oak Tree Farm in recent years, without involvement on his part, that responsibility for those replacements was assumed by occupiers and their designated supplier. During its inspection, the Tribunal verified the existence of the 'new' housing boxes and noted the condition of other housing boxes. As Mr and Mrs Coles suggest, some of the latter boxes are not in pristine condition, but, in view of the evidence presented to the Tribunal, this is not something for which the Applicant is responsible. Consequently, the Tribunal finds that this is not a matter that is pertinent to the issue that it is required to determine.

Mobile Homes Act 2014

77 The Tribunal does not recognise this Act or the provisions that according to Mr and Mrs Coles it contains. Two sets of regulations that are complementary to the 1983 Act, namely the Mobile Homes (Site Licensing) (England) Regulations and the Mobile Homes (Site Rules) (England) Regulations, were promulgated in 2014 but neither has a bearing on the determination of a new level of pitch fee and are not, therefore, relevant to these proceedings.

Development works

78 When the Tribunal undertook the inspection of Oak Tree Farm it took note of the five mobile homes (1-5 Oak Tree Farm) that Mr and Mrs Coles refer to in their written evidence and which the Applicant acknowledges belong to him, but, in the absence of supporting evidence, the Tribunal was not in a position to establish by simply observing these pitches and their environs from the perimeter road whether the assertions made by Mr and Mrs Coles about the consequences of the works that accompanied the construction of these mobile home on pitches acquired by the Applicant could be substantiated.

Water pressure

79 The evidence provided by the parties relating to the water pressure at Oak Tree Farm is inconclusive. Clearly, Mr and Mrs Coles are concerned about what they have described in evidence as the unreliability of the water pressure at their pitch and it would appear that, in view of his approach to Severn Trent, the Applicant treated this as a legitimate concern. However, Mr and Mrs Coles did not submit any compelling evidence as to the likely cause of the variability in water pressure. Admittedly, they attributed this to the advanced age of the water pipes at Oak Tree Farm and purported to rely on a statement from a Mr Riddle of Stratford-upon-Avon Council to the effect that the pipes were 'at the end of their lives'. Nevertheless, Mr and Mrs Coles give no indication of when this statement was made by Mr Riddle, on what evidence Mr Riddle's statement was based and nor did they adduce any confirmatory evidence from Mr Riddle of the statement that they indicated he had made. On the other hand, the Applicant made various statements in evidence about the water pressure which he said were derived from the contact he had made with Severn Trent i.e. the water pressure was sufficient to cope with day-to-day demands, the water pressure will drop if a significant number of occupiers demand water at the same time and any increase in water pressure may damage installations. However, the Tribunal notes that these statements do not appear in the letter from Severn Trent dated 21 April 2021. In that letter, Severn Trent state that following the review of the water pressure that was conducted at Oak Tree Farm 'we are confident with the water pressure at your property boundary' and continue by way of conjecture that '[W]hat this may mean is there maybe a problem with your internal pipes, private external pipes or equipment…'. There is no evidence that, subsequently, the Applicant chose, to the extent that he was able, to examine the condition of the pipes and equipment to which Severn Trent referred. On the other hand, Mr and Mrs Coles appeared to suggest at the hearing that the water pressure was satisfactory unless there were leakages to the system.

In these circumstances, the Tribunal is not, regrettably, in a position to make a definitive finding within the context of the applications as to the provision of the water supply to Oak Tree Farm and the quality of that supply. However, it is a fact that all infra-structure has a lifespan and will require replacement at some point.

Michael – 1 Oak Tree Farm

80 This individual, a former occupier of 1 Oak Tree Farm, is not a party to these proceedings. The matters raised relate to the circumstances pertaining to his occupation and subsequent vacation of that pitch and alleged and uncorroborated related incidents. These are not matters that impinge upon the issue that the Tribunal must determine.

Juggins Lane

81 It is accepted by the parties that the Applicant does not have any legally recognised interest in Juggins Lane. Consequently, he does not have any obligation to maintain or

repair it and any works that he has carried out have been undertaken of his own volition. Further, there is no evidence to suggest that Juggins Lane may be regarded as 'adjoining land which is occupied or controlled by the owner [the Applicant]' within the meaning of paragraph 18(1)(aa).

The Tribunal understands the concerns of residents of Oak Tree Farm about the need to keep this approach road well maintained and in good repair. Indeed, it is also in the Applicant's interest to ensure that this is the case. However and to reiterate, the Applicant is not legally obliged so to act. Suffice to say, it follows that any works that he has undertaken over the years enure for the mutual benefit of himself and the residents from time to time of Oak Tree Farm.

Site licence

82 During the inspection, the Tribunal noted that the site licence was displayed in a glass fronted noticeboard adjacent to the parking area near to the entrance to Oak Tree Farm. It was unable to ascertain whether the site licence was displayed in its entirety. Be that as it may, the Tribunal finds that a failure to display the site licence is not a factor that is material to the issue that it is charged to determine. However, such display is relevant to compliance with the site licence which requires a copy of the site licence and its accompanying conditions to be prominently displayed at Oak Tree Farm and adequately protected from the weather.

Breakdown of pitch fee and costs incurred by the Applicant in maintaining Oak Tree Farm

83 The evidence shows that the increase in the pitch fee sought by the Applicant is confined to the increase in the RPI index since the date of the last review, namely 1 January 2021. Paragraph 29 of the Schedule makes it clear that the pitch fee is intended to cover '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 the use of common areas of the protected site and their maintenance…' and specifies that it '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'. Beyond this differentiation between the component elements of the pitch fee there is no indication that the Applicant should account to occupiers separately in relation to those elements. Neither Reverend Andrews and Mrs Andrews nor Mr and Mrs Crumpton make a compelling case that this should be so and assert, simply, that they have a right founded in law or in their agreement(s) with the Applicant to a breakdown of the costs pertaining to these elements. Moreover, it is conceivable that the provision of such a breakdown would cause the Applicant to reveal, possibly sensitive information, regarding his expenditure at Oak Tree Farm and for which he is not asking the Respondents to contribute. Be that as it may, the Tribunal fails to comprehend how this issue has a bearing on the determination that it is charged to make.

Drainage

84 It would appear from the totality of the evidence that there is no drainage system in place to serve 44 Oak Tree Farm specifically, and that, therefore, drainage occurs in accordance with the Applicant's expectation in 2012 that, following his installation of a French drain for 26-30 Oak Tree Farm in that year, this drain would allow water to drain away naturally into the ground under 43-45 Oak Tree Farm. This is the position of which Mr Crumpton sought to make the Tribunal aware in the course of its inspection by means of the trial hole. Whilst this was helpful, it was not sufficient for the Tribunal to establish, conclusively, that there was no drain in place.

Mr and Mrs Crumpton allied the absence of a drainage system with what they regarded as consequential standing water on the perimeter road and intermittent flooding of 44 and 45 Oak Tree Farm after heavy rainfall. Here, the difficulty for the Tribunal is the paucity of the supporting evidence – one definitive photograph of water on the perimeter road alongside 44 Oak Tree Farm and no photographic evidence of flooding on either 44 or 45 Oak Tree Farm – especially when contrasted with the plethora of pertinent photographs presented by the Applicant in evidence that were taken by him following heavy rainfall and indicate an absence of standing water and/or flooding. In light of this, the Tribunal is precluded from finding other than that there is adequate drainage as submitted by the Applicant and confirmed by the representatives of Stratford-upon-Avon District following their inspection of Oak Tree Farm in December 2021 (see above, paragraph 56).

To the extent that the absence of a drainage system is material to the Tribunal's remit, it suffices to say that its absence means that there is nothing that can deteriorate over the relevant period, and, hence, no scope for satisfying the requirements of paragraph 18(1)(aa) of the Schedule.

Finally, the Tribunal concludes that there is insufficient evidence to establish that the Applicant agreed at any point to install a drainage system for 44 Oak Tree Farm. However, it recalls that there is presently an offer by the Applicant to do so through the installation of a French Drain which, if accepted, and the installation carried out to a good standard and design would be complementary to and compatible with the other drainage systems on Oak Tree Farm.

Request for a skip at 27 Oak Tree Farm

85 The claim that the Applicant refused a request for a skip made, presumably, by the occupier of this pitch is uncorroborated, notably by that occupier (who is not a party to these proceedings), and it is not a factor, therefore, upon which the Tribunal places reliance in its determination of the applications. Presumably, the inference to be drawn is that the presence of a skip would have facilitated the removal of discarded material from 27 Oak Tree Farm and, thereby, maintained the amenity of Oak Tree Farm whilst the refusal by the Applicant to authorise a skip would have compromised the amenity of Oak Tree Farm because of the consequent deposit on site of the discarded material. However, this is surmise.

Conclusion

86 The Tribunal does not find that there has been any measurable deterioration in the condition or decrease in the amenity of Oak Tree Farm or, similarly, any measurable reduction in the services provided by the Applicant or the quality of those services.

87 The Tribunal accepts the statutory presumption that the pitch fee should be increased in line with the increase in RPI index shall apply. The Tribunal is not persuaded that each of the Respondents have provided sufficient compelling evidence to rebut that presumption.

88 Consequently, the Tribunal determines that the pitch fee for all three properties, 7, 25 and 44 Oak Tree Farm, should increase from the review date of 1 January 2022 in accordance with the Pitch Fee Review Notice dated 24 November 2021.

89 Bearing in mind that the Respondents have continued to pay the original pitch fee since that date, they must pay the difference to the Applicant.

90 The Tribunal is unclear whether the Applicant has issued letters to any of the Respondents regarding arrears of pitch fees arising from the proposed increase. The Tribunal confirms that the Respondents are not in arrears if they have continued to pay

the pitch fee due before the service of the Pitch Fee Review Notice. The difference between the current pitch fee and the reviewed pitch fee becomes payable 28 days after this decision is issued (see, paragraph 17(4)(c) of Schedule 1 to the 1983 Act).

Costs

91 No party applied for costs and, consequently, the Tribunal makes no such award.

Judge David R Salter

Date: 16 December 2022

Appeal Provisions

92 If any party is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such appeal 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).

93 If the party wishing to appeal does not comply with the 28-day time limit, the party shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

94 The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.