



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

<b>Case reference</b>	<b>Property</b>	<b>Response from Respondent</b>
CHI/18UH/PHI/2023/0365	1 The Avenue	Yes
CHI/18UH/PHI/2023/0366	3 The Avenue	
CHI/18UH/PHI/2023/0367	5 The Avenue	Yes
CHI/18UH/PHI/2023/0368	6 The Avenue	Yes
CHI/18UH/PHI/2023/0369	7 The Avenue	Yes
CHI/18UH/PHI/2023/0370	8 The Avenue	Yes
CHI/18UH/PHI/2023/0371	9 The Avenue	Yes
CHI/18UH/PHI/2023/0372	10 The Avenue	
CHI/18UH/PHI/2023/0373	11 The Avenue	Yes
CHI/18UH/PHI/2023/0374	12 The Avenue	Yes
CHI/18UH/PHI/2023/0375	13 The Avenue	Yes
CHI/18UH/PHI/2023/0376	14 The Avenue	Yes
CHI/18UH/PHI/2023/0377	15 The Avenue	Yes
CHI/18UH/PHI/2023/0378	16 The Avenue	
CHI/18UH/PHI/2023/0379	17 The Avenue	Yes
CHI/18UH/PHI/2023/0380	18 The Avenue	Yes
CHI/18UH/PHI/2023/0381	19 The Avenue	Yes
CHI/18UH/PHI/2023/0382	20 The Avenue	Yes
CHI/18UH/PHI/2023/0383	2 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0384	6 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0385	8 Buckingham Orchard	
CHI/18UH/PHI/2023/0386	9 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0387	A2 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0388	A5 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0389	A7 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0390	A11 Buckingham Orchard	
CHI/18UH/PHI/2023/0392	B7 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0393	B8 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0394	B9 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0395	C2 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0396	C3 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0397	C4 Buckingham Orchard	
CHI/18UH/PHI/2023/0398	C5 Buckingham Orchard	
CHI/18UH/PHI/2023/0399	C6 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0400	C7 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0401	C8 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0402	C9 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0403	C10 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0404	C11 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0405	C12 Buckingham Orchard	Yes

CHI/18UH/PHI/2023/0406	D2 Buckingham Orchard	
CHI/18UH/PHI/2023/0407	D3 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0408	D4 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0409	D6 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0410	D8 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0411	D9 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0412	D10 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0413	E7 Buckingham Orchard	
CHI/18UH/PHI/2023/0414	E9 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0415	E10 Buckingham Orchard	
CHI/18UH/PHI/2023/0416	F1 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0417	F2 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0418	F3 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0419	F4 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0420	F5 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0421	F7 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0422	F8 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0423	F9 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0424	G2 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0425	G4 Buckingham Orchard	
CHI/18UH/PHI/2023/0426	G6 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0427	G8 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0428	G9 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0429	G10 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0430	Gate House, Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0431	H1 Buckingham Orchard	Yes
CHI/18UH/PHI/2023/0432	New 2 Buckingham Orchard	Yes

**Applicant** : Sovereign Park Home Estates Ltd

**Representative** : Chubb Bulleid Solicitors

**Respondent** : The Occupiers of the properties listed above

**Representative** :

**Type of Application** : Review of Pitch Fee: Mobile Homes Act 1983 (as amended)  
Mr W H Gater FRICS

**Tribunal Members** : Regional Surveyor  
Mr J Reichel MRICS  
Mr M Jenkinson

**Date and venue of  
Hearing** : 17 & 18 January 2024  
Exeter Tribunal Centre

**Date of Decision** : 14 February 2024

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## DECISION

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### **Summary of Decision**

**The Tribunal determines pitch fees as set out on the attached schedule.**

### **Background**

1. These applications have been made for the determination of a pitch fee increase for each of the named properties above. The Applicant says they have served a Pitch Fee Notice on each of the occupiers proposing an increase of the current pitch fee by 14.2% with effect from 1 January 2023.
2. Directions were issued initially on 21 September 2023, setting out a timeline for the exchange of documentation prior to a determination. The Tribunal noted that there were issues in relation to the written statements submitted for some of the pitches. This meant the Tribunal was unable to be satisfied that the review date had been correctly specified in those cases.
3. Representations were received from the Applicant on 10 October 2023. Following a review of these cases, the Tribunal was happy to proceed, joining all the cases to the proceedings and amending the dates for the original directions. This was to enable the parties to continue further with the reply process.
4. The Tribunal listed all of the applications before it, irrespective of whether the occupiers sent a response.

5. As some objections to the applications have been received, the Tribunal considered that a hearing was necessary, and directions were issued on 7 December 2023 that the matter would be heard at a hearing on 17 and 18 January 2024.

### **The Law**

6. The Tribunal is required to determine whether the proposed *increase* in pitch fees is reasonable. Some Respondents point to inconsistencies in pitch fee levels. Consideration of this is outside the jurisdiction of the Tribunal in this application. The Tribunal is not deciding whether the overall level of pitch fee is reasonable.
7. A pitch fee is payable by each Respondent. Pitch fee is defined in paragraph 29 of Part 1 of Schedule 1 of the 1983 Act as:

"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, sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts."
8. The Tribunal is required to have regard to paragraphs 18, 19 and 20 of Part 1 of Schedule 1 of the 1983 Act when determining a new pitch fee. Paragraph 20(1) introduces a presumption that the pitch fee shall increase by a percentage which is no more than any percentage increase or decrease in the RPI since the last review date and applies unless factors identified in paragraph 18 are demonstrated so that presumption does not apply. If the presumption does apply, it may be rebutted but only by other factors which are sufficiently weighty to do so.
9. See the Upper Tribunal decision in *Vyse -v- Wyldecrest Parks (Management) Limited* 2017 [UKUT] 24. [Vyse]
10. At paragraph 27 Vyse sets out the four provisions as the basis on which the FTT determines the pitch fee.
11. Paragraph 16 of the 1983 Act states that the pitch fee can only be changed by the FTT if it "considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee".
12. Paragraph 18(1) specifies a number of matters to which "particular regard shall be had" when determining the amount of the new pitch fee, including: -
  - 18(1)(aa) in the case of a protected site in England, *any deterioration in the condition, and any decrease in the amenity, of the site or any adjoining land* [emphasis added] 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 subparagraph);

- (ab) in the case of a protected site in England, *any reduction in the services that the owner supplies to the site, pitch or mobile home, and any deterioration in the quality of those services*, [emphasis added] 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 subparagraph).

13. The task for the Tribunal is therefore to determine whether it is reasonable to change the pitch fee and if so, whether the issues raised by the Respondents are of sufficient weight to dislodge the presumption that the pitch fee should rise by no more than the RPI.

### **Inspection**

14. The Tribunal attended the site immediately before the hearing. Present were Mr Jeffrey Small, Messrs Gary and Callum Self for the Applicant. The Respondents in attendance were Ms Weymouth, Mrs Statt, Ms Oliver, Mrs Hawken, Mr Barry Hughes on behalf of Mrs Elliott of C8, Mr William Burrows 7B and Miss Doris Jalloh 8D.
15. The Tribunal found an established residential park on the edge of the village of Chudleigh Knighton just off the A38 between Exeter and Plymouth.
16. The site slopes downward from the road and overlooks open countryside at the rear.

### **The Hearing**

17. Present at the hearing were:

For the Applicant:

Mr Jeffrey Small, Mr Callum Self and Mr Gary Self. Both day 1 & 2.

For the Respondents: On day 1:-

Mr Neil and Mrs Tina Deacon of 10 The Avenue, represented by Ms Lucy Sambell.

Ms Katrina Oliver representing Mr Charles Oliver of 20 The Avenue

Mrs Sandra Stott of F3 Buckingham Orchard

Mrs Pat Hawken of 6 Buckingham Orchard

Ms Marrienne Weymouth of F2 Buckingham Orchard and on behalf of Mr and Mrs Sargent of F5

Mr Denis and Mrs Sharon Bailey of 11 The Avenue

For the Respondents: On day 2:-  
Mr and Mrs Bailey  
Ms Lucy Sambell  
Mrs Tina Deacon  
Ms Katrina Oliver  
Sandra Statt

18. There was no appointed spokesperson for the Respondents and the Tribunal heard from all parties in attendance.
19. The Tribunal reached its decision after considering the oral and written evidence, including documents referred to in that evidence, and taking into account its assessment of the evidence.
20. As appropriate, and where relevant to the Tribunal's decision these are referred to in the reasons for the Tribunal's decision.
21. This determination does not refer to every matter raised by the parties, or every document the Tribunal reviewed or took into account in reaching its decision. However, this does not imply that any points raised or documents not specifically mentioned were disregarded. If a point or document was referred to in the evidence or submissions that was relevant to a specific issue, it was considered by the Tribunal in making this decision.
22. A number of Respondents took the opportunity to raise issues outside of the jurisdiction of the Tribunal determining a pitch fee review, and therefore not taken into account in the decision ,but which may have remedies elsewhere.

#### Preliminary issues

23. Ms Weymouth raised the issue that the notices served on her were addressed as Buckingham Orchard Park and with the wrong post code. The Tribunal ascertained that she had duly received the notice. It finds that the notice was satisfactorily served for the purposes of the review.
24. The application to the Tribunal was signed by Jordan Davidson and Ms Weymouth questioned whether he had authority to do so given this contained a statement of truth.
25. The Tribunal finds that Mr Davidson is a solicitor governed by the rules of conduct of litigation and therefore an authorised person who may sign the application. He was not present at the hearing and the Applicant was represented by Mr Small and Messrs Self and gave evidence in support of the written application.
26. Ms Weymouth also questioned the time taken to submit the application between the date of the notice and the date of the application to the Tribunal. The Applicant has three months from the date of the review to

make this application. This was received on the 31st of March by the Tribunal and it finds that the application was in time.

27. Accordingly, The Tribunal is satisfied that the Applicant has complied with the procedural requirements of paragraph 17 of Part 1 of Schedule 1 of the 1983 Act to support an application for an increase in pitch fee in respect of the pitch occupied by the Respondents.
28. The Tribunal records that on day 2 photographic evidence referred to by the Respondents was admitted and accepted by the Applicant together with a letter.
29. The Tribunal also issued to the parties present a copy of a previous decision ref CHI/18UH/PHC/2014/0007 relating to this site dated 24 April 2015 and allowed the short adjournment for them to consider this and include comment in their submissions if they wish.

### **The Evidence**

30. Each of the Respondents made submissions to the Tribunal in support of their written responses. The Tribunal also considered the written responses of each of those who had replied but not attended the hearing. The Applicant made oral submissions in support of their application and both Applicant and Respondents were permitted to question the other at the end of submissions.
31. The Tribunal heard that some Respondents were ashamed of Buckingham Orchard which had been unkindly renamed by neighbouring villagers. The proposed increase was excessive. They would have been content to pay the higher fee if the site had been maintained in the proper manner.
32. They pointed out that the Applicant owns a number of other sites and the income from this site is not being used to improve and maintain the property.
33. The Applicant says that the park is not perfect but that it has been improved massively. They refer to the 14.2% increase as “unrealistic” but point out that their costs in providing services and maintenance have risen considerably.
34. The Tribunal considered each of the Respondents submissions and in view of the large number of responses, groups the issues raised and considers them in turn.

### **Condition of the roads.**

35. The Respondents say roads are in generally poor condition and piece-meal patching of potholes does not last. Where concrete repairs have been made to the road these have created trip hazards standing up from

the general surface. Because there are no pavements there is extreme difficulty for vulnerable people particularly those using mobility scooters. Access is difficult for deliveries and emergency services.

36. The Applicant says that potholes are repaired as and when required and they instruct a professional tarmac company who attended the park recently to spend the day filling in large potholes. The roads in the park are satisfactory and checked on a monthly basis.

#### Water supply

37. The Respondents point to frequent water leaks and the inconvenience of interrupted supplies.
38. The Applicant states that they are in dispute with South West Water as to the ownership of the water system within the site and are unable to carry out effective improvement until this is resolved. Any leaks reported are dealt with within 24 hours but larger leaks can take longer to complete if materials are not readily available.

#### Surface water drainage and sewers

39. The Respondents say that there is flooding at the end of The Avenue and in the car park next to H1 when it rains and the drains get blocked with gravel. There have been sewer overflows earlier this year and last year there was a major sewage leak. Mrs Minchington in 9E suffered damage inside her home when blockages were cleared.
40. The Applicant states that there is sufficient drainage of the park. Heavy downpours of rain will on occasion create a build-up of surface water however this surface water will drain away as the weather improves. At the hearing the Applicant undertook to investigate the surface water drainage build-up to the lower parts of the site.

#### Vacant plots

41. The Respondents say that vacant plots are very poorly maintained and often used for rubbish dumps. Adjacent fields owned by the Applicant are also used to dump materials. The felled tree at the bottom of the site has not been removed.
42. The Applicant says vacant plots are maintained on a monthly basis and are development sites where new homes will in time be placed.

#### Street lighting

43. The Respondents say that street lighting is inadequate and poorly maintained. One street light has been out for over a year.
44. The Applicant says that street lighting is satisfactory within the park.



### General maintenance

45. The Respondents say that the vacant house at the front of the site is in poor condition and falling apart. The Applicant points out that the building, which was tenanted until a year ago, is due to be demolished.
46. There is also a former park office which has not been used for some years and is poorly maintained. The Applicant responds that this was closed 13 years ago but there is a site manager available from a central office five days a week.
47. The Respondents point to the crumbling brick wall at the entrance to the site, overhanging trees and a poorly maintained fence.
48. The Applicant states that there is a regular monthly programme of maintenance including sweeping all park roads, cleaning of signs in the park, weeding, tidying car park areas, clearing drains where required, cleaning and checking the notice board, filling in the potholes, cutting and strimming communal areas, tidying up the park entrance, checking fire hydrant boxes and checking street lights. Checks are carried out by various staff including a company director.

### Miscellaneous:

49. The Respondents refer to a number of other issues in support of their case. These include - there are only two grit boxes on the site and these are not maintained or refilled. The Applicant states that they have not provided grit to the residents for a number of years.
50. The Respondents say that electrical boxes protrude to the road following reorganisation of the site. The Applicant says that only the National Grid may remove these boxes.

### Consideration

51. Each pitch fee is proposed to rise by 14.2%, the RPI increase rise between the specified dates.
52. On the inspection and during the hearing it was clear that feelings run high on both sides. The Tribunal ensured that each of those present at the hearing was satisfied that they had an opportunity to speak and ask questions.
53. The Tribunal pointed out that the jurisdiction in this application is limited to consideration of the increase in the pitch fee. The parties clearly felt strongly about the issues raised, but not all of the matters

cited by the Respondents are directly relevant to this application. All representations were listened to and considered in making this determination.

54. The Tribunal finds Buckingham Orchard is in poor condition in many areas. Vacant or unused parts of the site are unkempt and the tree removal at the bottom of the site has been poorly finished. The disused office remains in a poor state.

#### Roads

55. The road surfaces are patchy and lack consistent surfaces. The absence of pavements means that pedestrians and vehicles share the uneven roadway. This creates particular difficulty for vulnerable and disabled residents.
56. Whilst the Tribunal accepts that some efforts are made by the Applicant to maintain the roads by patching, the condition of the roads is inferior to that found by the Tribunal in 2015. Then, the roads were found to be lacking a sound base. That Tribunal determined that the Applicant should make good faulty repairs including a proper base for the tarmac and that all patch repairs should be done to a good standard. The necessary work has not been done, but what is required now is more than making good faulty repairs. It is apparent that repair works are reactive and that the work envisaged by the Tribunal in 2015 is yet to be completed. This represents a deterioration in the site amenity.
57. The Tribunal noted that road repairs carried out in the section by British Gas were all of a satisfactory standard and it is possible to create a decent surface.

#### Surface water and foul drainage

58. Surface water drainage is likely to be an ongoing problem in a sloping site of this type but existing arrangements are unable to cope in heavy rainfall. This is exacerbated by the poor condition of the roads where runoff water is removing fragmented tarmac and hardcore. Such drains as there are, are likely to be frequently blocked.
59. The Tribunal accepts the evidence of the Respondents that there are issues with foul drainage overflow.

#### Water supply

60. The water supply is unstable and unsatisfactory. On the site inspection the Tribunal found that there was a current water leak which had turned to ice, making the roadway hazardous to pedestrians and vehicles. This is below the standard required. The Applicant states that improvements cannot be initiated until ownership issues are resolved with South West Water. This is at odds with the findings of the previous Tribunal which held that the Applicant was responsible for maintaining the

infrastructure. The previous Tribunal found that arrangements for improved conditions were in hand. This Tribunal finds that the current condition of the water supply represents a deterioration in the amenity of the site.

### Remaining and Miscellaneous Issues

61. In Vyse it was held that such issues must be sufficiently “weighty” to justify departure from the RPI assumption. The remaining issues raised by the Respondents are of insufficient weight to overcome that high bar and displace the assumption that the pitch fee should rise by the RPI. This is not to diminish the strength of honestly held views and there may be other remedies outside of the limitations of a pitch fee review.

### Determination

62. The Tribunal determines that there are sufficient grounds in the Respondents submissions to displace the statutory assumption that the pitch fee should follow the rise in RPI.
63. The elements which the Tribunal finds have proved sufficient are the poor condition of the roads, deficiencies in water supply, surface water drainage and ongoing foul drainage issues.
64. That finding is based on three factors.
65. Firstly, Paragraph 18 states: -

18(1)(aa) in the case of a protected site in England, any deterioration in the condition, and any decrease in the amenity, of the site or any adjoining land which is occupied or controlled by the owner since the date on which this paragraph came into force (*in so far as regard has not previously been had to that deterioration or decrease for the purposes of this subparagraph*); [emphasis added].
66. In relation to 18(1) (aa) the Applicant has confirmed that no reduction or adjustment to pitch fees has been made in the past to allow for any of the issues raised, other than one imposed by Tribunal in respect of the closed site office.
67. Secondly, the work understood to be in hand in 2015 has not been carried out as proposed and the Tribunal finds that the amenity of the site has deteriorated.
68. Thirdly, as referred to in Vyse at 30, in Charles Simpson Organisation Limited v Martin Redshaw & another [2010] 2514 (Ch) (CH/AP/391) , Kitchen J said:-

“.... The purpose of paragraph 20 is to provide a simple procedure for reviewing pitch fees for each year. Any

change in the RPI provides a starting point for the determination of the appropriate increase or decrease in the pitch fee, *but this may be departed from if it will produce an unreasonable result having regard to paragraph 18.* [Emphasis added]. This paragraph, it is to be noted, includes factors which may result in an adjustment by way of increase or decrease which is, in my judgment, more consistent with the change in RPI providing a starting point rather than a cap.”

69. The Tribunal finds that applying the RPI increase of 14.2% in this case would produce an unreasonable result.
70. The task of the Tribunal therefore is to determine what is reasonable. As noted in Vyse there is no specific guidance in statute or case law on how this is to be done and the Tribunal must use its own expertise in arriving at a reasonable result.
71. It has considered whether a nil increase would be appropriate. The list of unsatisfactory issues, some left over from the earlier Tribunal, does give some weight to this possibility. Nevertheless, the Applicants do provide some maintenance and services and there has been a significant increase in costs over the year in question.
72. After due consideration the Tribunal finds that a deduction of 50% from the starting point of 14.2% produces a reasonable result, at +7.1%.

### **Decision in respect of the pitch fee**

73. The Tribunal determines that each current pitch fee shall increase by 7.1% with effect from 1 January 2023. The resultant pitch fee for each of the properties contained in the application is shown on the spreadsheet below.

### **Fees**

74. The Tribunal may make an order requiring a party to reimburse any other party the whole or part of the amount of any fee paid by the other party (which has not been remitted) pursuant to rule 13(2) of The Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013.
75. Given that the Respondents have been successful in part, the Tribunal is not minded to order them to reimburse the Applicant with the Tribunal application fee of £20.00.
76. The Applicant may make representations in writing to the Tribunal by **27 February 2024** as to why they should not reimburse the application fee.

77. The Respondents will be at liberty to submit a brief response to any such representations by **5 March 2024**.
78. If the parties make representations, those will be considered. The Tribunal may provide a further order in respect of re-imbursement following consideration of the representations.

## **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.