FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	CHI/19UD/PHI/2023/0626 CHI/19UD/PHI/2023/0627 CHI/19UD/PHI/2023/0625 CHI/19UD/PHI/2023/0631
Property	:	13, 16, 4a and 69 Hillbury Park Hillbury Road Alderholt Fordingbridge Hampshire SP6 3BW
Applicant	:	Southern Country Parks Ltd
Representative	:	Apps Legal Ltd and Ms V Osler Counsel
Respondent	:	Mrs E C Bird (Plot 13) Mr & Mrs Burden (Plot 16) Miss Saxton & Mrs Young (Plot 4a) Miss Fay (Plot 69)
Representative	:	None
Type of Application	:	Review of Pitch Fee: Mobile Homes Act 1983 (as amended)
Tribunal Members	:	Mr I R Perry FRICS Mr M J Ayres FRICS Mr R Waterhouse FRICS
Date of Inspection and Hearing	:	8th July 2024
Date of Decision		18th July 2024

DECISION

Summary of Decision

1. **The Tribunal determines that the pitch fee for:**

   - **13 Hillbury Park, Hillbury Road, Alderholt, Fordingbridge, Hampshire, SP6 3PW is £205.51 per month from 1st July 2023.**
   - **16 Hillbury Park, Hillbury Road, Alderholt, Fordingbridge, Hampshire, SP6 3PW is £191.56 per month from 1st July 2023.**
   - **4a Hillbury Park, Hillbury Road, Alderholt, Fordingbridge, Hampshire, SP6 3PW is £216.27 per month from 1st July 2023.**
   - **69 Hillbury Park, Hillbury Road, Alderhot, Fordingbridge, Hampshire, SP6 3PW is £170.11 per month from 1st July 2023.**

Background and Procedural History

2. On 17th August 2023 the Applicant site owner applied for a determination of a revised pitch fees payable by the Respondents with effect from 1st July 2023.

3. In respect of each home, it was proposed that the fee increase by 11.4%, this being the annual increase in the Retail Price Index ("RPI") for April 2023.

4. Hillbury Park ("the Park") is a protected site within the meaning of the Mobile Homes Act 1983 ("the 1983 Act"). The definition of a protected site in Part 1 of the Caravan Sites Act 1968 includes a site where a licence would be required under the Caravan Sites and Control of Development Act 1960 if the exemption of local authority sites were omitted.

5. The Respondents are each entitled to station their park home on a pitch within the park by virtue of an agreement under the 1983 Act, which includes the statutory implied terms referred to below.

6. A pitch Fee Review Notice with the prescribed form proposing the new pitch fee was served on each of the Respondents dated 31st May 2023, proposing to increase the pitch fee by an amount which the Applicant says represents an adjustment in line with the Retail Prices Index ("RPI"). None of the Respondents disputed the calculation of the new Pitch fee.

7. The review date in each agreement is 1st July in each year. No recoverable costs or relevant deductions were applied.

8. The Respondents did not agree to the increases and the cases were referred to the First-Tier Tribunal Property Chamber (Residential Property).

9. The Tribunal issued Directions in each case on 6th March 2024 setting out the dates for compliance by the parties preparatory to a determination on the papers. The Tribunal received objections in relation to all four cases and the owners of Plot 4a requested a hearing.

10. On 9th April 2024 the Tribunal received a case management application from the Applicant requesting that all four cases be joined together as 'each set of proceedings raises common issues'. The Applicant also requested a hearing and a site inspection.

11. On 17th April 2024 the Tribunal received an application from Mr Young (Plot 4a) to add some 47 photographs to his case. This application was granted.

12. On 6th June 2024 a further application was made on behalf of the Applicant requesting the Tribunal include a second written statement from Mr Romans representing the Applicant. This application was to be considered as a first item at the hearing.

13. A hearing took place at Salisbury Law Courts on 8th July 2024, preceded by a site inspection at 10.00 am on the same day. As required the Applicant provided a bundle which ran to 400 pages. References to the bundle will be enclosed by square brackets [ ]. All four applications were heard together.

Submissions

14. Within the bundle the Tribunal was provided with an application form, pitch fee review letter, pitch fee review form, written statement and an ONS screenshot of RPI, relating to each of the four cases.

15. The Tribunal was provided with a Respondent Statement from Mrs Bird (Plot 13) [163] with accompanying photographs and correspondence over several years. She clearly sets out her reasons for objecting to the increase, on the grounds that the amenity of the site has deteriorated over a period of years.

16. Mrs Bird includes references to the age of people on the site - younger people generating greater traffic, the style/size/colour of newer replacement homes – viz. Plot 31, positioning of road signs and purported narrowing of roads. She also refers to the condition of some garages, the condition of a vacant plot, the number of visitor spaces and the number of homes on the site.

17. Mr & Mrs Burden (Plot 16) mostly complain of flooding on their pitch and provide photographs in support of this. They assert that rainfall running off other adjacent or adjoining pitches has eroded parts of their patio/driveway where blocks have sunk, that slabs are lifting, that a new

fence is rotting, that the base of their greenhouse needed to be replaced and that the few steps leading up to their home are crumbling. They have also had issues with foul but untraceable smells from beneath their bathroom.

18. Mr and Mrs Burden provided a letter they had written to the park owner in August 2022 and a reply from Mr Romans dated 31st August 2022 in which he committed to look at their drive when he was next on the park.

19. The case made by Miss Saxton and Mr Young (Plot 4a) primarily relates to flooding of the road in front of their home. This is the main access road to the site. They supplied some 47 photographs to illustrate this which demonstrates that the stormwater gulley to the front and side of their home was not coping with the amount of surface water, such that the water does not drain away in a timely manner.

20. Miss Saxton and Mr Young state that after heavy rain the sand between the blocks on their driveway is washed away and they are left with dirt and rubbish. They have placed small concrete dams along the side of their home and have had to replace rotted access doors to the underside of the home. They also suffer from flood 'wash' whenever a vehicle passes through the flooded area.

21. Miss Saxton and Miss Young say that they have written to Mr Romans with photographs but have not received any replies. They have been recording and photographing the flooding over the last 2 years.

22. Miss Saxton and Mr Young refer to the site licence from Dorset Council to Mr J P Romans which includes, at section 9.3, 'every site and every hard standing shall be provided with an adequate drainage system for the complete and hygienic disposal of rain and surface water from the site, buildings caravans, roads and footpaths'.

23. The sole reason for objecting to the rent made by Miss Fay (Plot 69) relates to the flooding to the front of Plot 4a which makes the entrance impassable for pedestrians during or after heavy rainfall. She relies on public transport so must leave the site on foot, which would clearly be difficult when the access road is flooded.

Inspection

24. The Tribunal (consisting of Messrs Perry, Ayres and Waterhouse) inspected the site prior to the hearing. We parked in two different parts of the site close to two different blocks of garages. Mr Romans of Southern Country Parks was present together with Ms Apps and Ms Osler. Mrs Bird (Plot 13) Mrs Burden (Plot 16) were present. Mrs Burden was accompanied by Mr White, another Park resident. All parties present were able to bring specific points to the attention of the Tribunal.

25. There are 77 Park homes on the site of which 5 are owned by the Applicant. There are also some garages which are owned by or rented to some residents. There is a one-way road system around the main part of the site with a two-way entrance road. The site was obviously a long-established. There had been some rainfall prior to the inspection which had created some relatively small puddles.

26. The Tribunal was directed to Plot 16 owned by Mr and Mrs Burden where water pools after heavy rain. The Tribunal noted that the parking area to the front of the home has been block paved and there is a pronounced depression, perhaps 3 feet wide and several inches deep. There is also a low fence and gate into an area where Mr and Mrs Burden have recently laid astroturf with several steps up to the home itself. The land around the home recently installed adjacent to Plot 16 was noticeably higher than the land around Plot 16 itself.

27. The Tribunal were asked to note the nearby vacant plot 48 with overgrown vegetation, the style of the new home recently installed at plot 31, the pathway between plots 55 and 56, the condition of the garages at the lower end of the site with an adjacent area where garages have been removed, the condition of the block of garages at the top of the site, the condition of the roads and signage, and the condition of the evergreen hedge adjacent to Mrs Burdens home at Plot 16.

28. The Tribunal was shown the position of an old shed, referred to in Mrs Birds submission, which was removed some years ago and a new home installed, now occupied by Mr White.

29. The Tribunal was also taken to the area in front of the home occupied by Ms Saxton and Mr Young -Plot 4a - where it is said that there is flooding after heavy rain. The Tribunal noted the relevant slopes in the tarmac road surface, the single stormwater drain and a route for rainwater created by Mr Young through his plot in an effort to encourage surface water to drain into fields at the rear of his plot.

30. The Tribunal walked the roads around the park noting that there was a variety of home styles on the site, relatively small rain puddles at points around the site, that many of the homes have additional hard surfaced areas in front of their home to provide additional parking and several areas where small sandbags have been laid out as a defence to any flash flooding. The Tribunal noted only two surface water drains on the whole site.

The relevant Law and the Tribunal's jurisdiction

31. One of the important objectives of the 1983 Act was to standardise and regulate the terms under which mobile homes are occupied on protected sites.

32. All agreements to which the 1983 Act applies incorporate standard terms which are implied by the Statute, the main way of achieving that

standardisation and regulation. In the case of protected sites in England the statutory implied terms are those in Chapter 2 of Part 1 of Schedule 1 to the 1983 Act.

33. The principles governing a pitch fee increase are provided for in paragraphs 16 to 20 inclusive. The procedure is provided for in paragraph 17, which also makes reference to paragraph 25A.

34. A review is annual on the review date. In respect of the procedure, paragraph 17(2) requires the Owner to serve a written notice ("the Pitch Review Notice") setting out their proposals in respect of the new pitch fee at least 28 days before the review date. Paragraph 17(2A) of the 1983 Act states that a notice under sub-paragraph (2) is of no effect unless accompanied by a document which complies with paragraph 25A. Paragraph 25A enabled regulations setting out what the document accompanying the notice must provide. The Mobile Homes (Pitch Fees) (Prescribed Forms) (England) Regulations 2013 ("The Regulations") does so, more specifically in regulation 2. A late review can also take place, provided at least 28 days notice is given.

35. The Mobile Homes Act 2013 ("the 2013 Act") which came into force on 26 May 2013 strengthened the regime. Section 11 introduced a requirement for a site owner to provide a Pitch Review Form in a prescribed form to the occupiers of mobile homes with the Pitch Review Notice.

36. In terms of a change to the pitch fee, paragraph 16 of Chapter 2 provides that the pitch fee can only be changed (a) with the agreement of the occupier of the pitch or:

> "(b) if the [appropriate judicial body], on the application of the owner or the occupier, considers it reasonable for the pitch fee to be changed and makes an order determining the amount of the new pitch fee."

37. Consequently, if the increase in the pitch fee is agreed to by the occupier of the pitch, that is the end of the matter. If the occupier does not agree, the pitch fee can only be changed (increased or decreased) if and to the extent that the Tribunal so determines.

38. The Tribunal is required to then determine whether any increase in pitch fee is reasonable and to determine what pitch fee, including the proposed change in pitch fees or other appropriate change, is appropriate. The original pitch fee agreed for the pitch was solely a matter between the contracting parties and that any change to the fee being considered by the Tribunal is a change from that or a subsequent level. The Tribunal does not consider the reasonableness of that agreed pitch fee or of the subsequent fee currently payable at the time of determining the level of a new fee.

39. 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. The

implementation of those provisions was the first time that matters which could or could not be taken into account were specified.

40. Paragraph 18 provides that:

> "18(1) When determining the amount of the pitch fee particular regard shall be had to-
> (a) any sums expended by the owner since the last review date on improvements .....
> (aa) and deterioration in the condition, and any decrease in the amenity, of the site .....
> (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 (insofar as regard has not previously been had to that reduction or deterioration for the purposes of this sub- paragraph.
> ....."

41. Paragraph 20A(1) introduced a presumption that the pitch fee shall not change by a percentage which is more than any percentage increase or decrease in the RPI since the last review date, at least unless that would be unreasonable having regard to matters set out in paragraph 18(1) (so improvements and deteriorations/reductions). The provision says the following:

> "Unless this would be unreasonable having regard to paragraph 18(1), there is a presumption that the pitch fee shall increase or decrease by a percentage which is not more than any percentage increase or decrease in the retail price index calculated by reference only to-
> (a) the latest index, and
> (b) index published for the month which was 12 months before that to which the latest index relates."

38 A detailed explanation of the application of the above provisions is to be found in a decision of the Upper Tribunal in *Sayer* [2014] UKUT 0283 (LC), in particular at paragraphs 22 and 23 in which it explained about the 1983 Act and the considerations in respect of change to the pitch fee.

39 Notably the Deputy President, Martin Rodger KC said as follows:

> "22. The effect of these provisions as a whole is that, unless a change in the pitch fee is agreed between the owner of the site and the occupier, the pitch fee will remain at the same level unless the RPT considers it reasonable for the fee to be changed. If the RPT decides that it is reasonable for the fee to be changed, then the amount of the change is in its discretion, provided that it must have "particular regard" to the factors in paragraph 18(1), and that it must not take into account of the costs referred to in paragraph 19 incurred by the owner in connection with expanding the site. It must also apply the presumption in paragraph 20(1) that there shall be an increase (or decrease) no greater than the percentage change in the RPI since the last review date unless that would be unreasonable having regard to the factors in paragraph

> 18(1). In practice that presumption usually means that annual RPI increases are treated as a right of the owner.
>
> 23. Although annual RPI increases are usually uncontroversial, it should be noted that the effect of paragraph 20(1) is to create a limit, by reference to RPI, on the increase or decrease in the pitch fee. There is no invariable entitlement to such an increase, even where none of the factors referred to in paragraph 18(1) is present to render such an increase unreasonable. The overarching consideration is whether the RPT considers it reasonable for the pitch fee to be changed; it is that condition, specified in paragraph 16(b), which must be satisfied before any increase may be made (other than one which is agreed). It follows that if there are weighty factors not referred to in paragraph 18(1) which nonetheless cause the RPT to consider it reasonable for the pitch fee to be changed, the presumption in paragraph 20(1) that any variation will be limited by reference to the change in the RPI since the last review date may be displaced."

40 Those paragraphs therefore emphasise that there are two particular questions to be answered by the Tribunal. The first is whether any increase in the pitch fee at all is reasonable. The second is about the amount of the new pitch fee, applying the presumption stated in the 1983 Act but also other factors where appropriate (although the case pre-dated the 2013 Act changes).

41 In *Shaws Trailer Park (Harrogate) v Mr P Sherwood and Others* [2015] UKUT 0194 (LC), it was succinctly explained that:

> "A pitch fee is defined by paragraph 29 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 the use of the common areas of the site and their maintenance."

42 In *Britaniacrest Limited v Bamborough* [2016] UKUT 0144 (LC), the wording used by the Upper Tribunal was that:

> "The FTT is given a very strong steer that a change in RPI in the previous 12 months will make it reasonable for the pitch fee to be changed by that amount, but is provided with only limited guidance on what other factors it ought to take into account"

43 The Upper Tribunal went on in *Britaniacrest* to suggest that it could have expressed itself better in *Sayers*- and the Deputy President was again on that Tribunal, as one of two members- and then continued (albeit in the context of whether the increase could be greater):

> "31. ...The fundamental point to be noted is that an increase or decrease by reference to RPI is only a presumption; it is neither an entitlement nor a maximum, and in some cases it will only be a starting point of the determination. If there are factors which mean that a pitch fee increased only be RPI would nonetheless not be a reasonable pitch fee as contemplated by paragraph 16(b), the presumption of only an RPI increase may be rebutted.....
>
> 32. ..... If there are no such improvements the presumption remains a presumption rather than an entitlement or an inevitability."

Adding as relevant in that case:

> "If there are other factors- not connected to improvement- which would justify a greater than RPI increase because without such an increase the pitch fee would not be a reasonable pitch fee then they too may justify an above RPI increase……."

although not suggesting that a pitch fee including a lower than RPI increase should be approached any differently to that.

44 More generally, the Upper Tribunal identified three basic principles which it was said shape the scheme in place- annual review at the review date, in the absence of agreement, no change unless the First Tier Tribunal considers a change reasonable and determines the fee and the presumption discussed above.

45 The Upper Tribunal (Lands Chamber) decision in *Vyse v Wyldecrest Parks Management Ltd* [2017] UKUT 24 (LC) HHJ Robinson said

> "It is to be noted that, other than providing for what may or may not be taken into account for the purpose of determining any change in the amount of the pitch fee, there is no benchmark as to what the amount should be still less any principle that the fee should represent the open market value of the right to occupy the mobile home."

46 It was further re-iterated that:

> "the factors which may displace the presumption are not limited to those set out in paragraph 18(1) but may include other factors."

And later that where factors in paragraph 18(1) apply, the presumption does not arise at all, given the wording and structure of the provision, and in the absence of such factors it does.

47 The Upper Tribunal identified that a material consideration as a matter of law "does not necessarily mean" that the presumption should be displaced. Further explanation was given in paragraph 50 that:

> "If there is no matter to which any of paragraph 18(1) in terms applies, then the presumption arises and it is necessary to consider whether any 'other factor' displaces it. By definition, this must be a factor to which considerable weight attaches. If it were a consideration of equal weight to RPI, then, applying the presumption, the scales would tip the balance in favour of RPI. Of course, it is not possible to be prescriptive as to precisely how much weight must be attached to an 'other factor' before it outweighs the presumption in favour of RPI. This must be a matter for the FTT in any particular case. What is required is that the decision maker recognises that the 'other factor' must have sufficient weight to outweigh the presumption in the context of the statutory scheme as a whole."

48 And in paragraph 51, the Upper Tribunal continued:

> "On the face of it, there does not appear to be any justification for limiting the nature or type of 'other factor' to which regard may be had. If an 'other factor' is not one to which "no regard shall be had" but neither is it one to which "particular regard shall be had", the logical consequence is that regard may be had to it. In my judgment this approach accords with the literal construction of the words of the statute. Further, it is one which would avoid potentially unfair and anomalous consequences."

49 In addition, referring to the presumption of change, in line with RPI, it was said:

> "56. ..... In my judgment there is good reason for that.
>
> 57. There are a substantial number of mobile home sites in England occupied pursuant to pitch agreements which provide for relatively modest pitch fees. The legislative framework for determining any change in pitch fee provides a narrow basis on which to do so which no doubt provides an element of certainty and consistency that is of benefit to site owners and pitch occupiers alike. The costs of litigating about changes in pitch fee in the FTT and in the Tribunal are not insubstantial and will almost invariably be disproportionate to any sum in issue. I accept the submission of Mr Savory that an interpretation which results in uncertainty and argument at many pitch fee reviews is to be avoided and that the application of RPI is straightforward and provides certainty for all parties."

50 Nevertheless, and recognising that the particular question which had been discussed was matters arising which did not fall with paragraph 18(1) because of a failing which had caused no prejudice, the Upper Tribunal also observed:

> "58. ..... In circumstances where the 'other factor' is wholly unconnected with paragraph 18(1), a broader approach may be necessary to ensure a just and reasonable result. However, what is just or reasonable has to be viewed in the context that, for the reasons I have already given, the expectation is that in most cases RPI will apply."

51 The final relevant part in Vyse is:

> "64. The pitch fee is a composite 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, *Britanniacrest* (2016) paragraph 24. …….. Not all of the site owner's costs will increase or decrease every year, nor will they necessarily increase or decrease in line with RPI. The whole point of the legislative framework is to avoid examination of individual costs to the owner and instead to apply the broadbrush of RPI. Parliament has regarded the certainty and consistency of RPI as outweighing the potential unfairness to either party of, often modest, changes in costs."

52 We also note the decision of the Upper Tribunal in *Wyldecrest Parks Management Limited v Kenyon and others* (LRX/103/2016). In paragraph 31 it was said about the provisions in the 1983 Act that

"The terms are also capable of being interpreted more purposively, on the assumption that Parliament cannot have intended precisely to prescribe all of the factors capable of being taken into account. That approach is in the spirit of the 1983 Act as originally enacted when the basis on which new pitch fees were determined was entirely open."

53 The Upper Tribunal also addressed the question of the weight to be given to other factors than those in paragraph 18(1) at paragraph 45 of its judgment quoting paragraph 50 in *Vyse* The RPI presumption not being lightly displaced was emphasised and paragraph 57 of *Vyse* quoted.

54 The Upper Tribunal went on to summarise six propositions derived from the various previous decisions with regard to the effect of the implied terms for pitch fee reviews as follows:

"(1) The direction in paragraph 16(b) that in the absence of agreement the pitch fee may be changed only "if the appropriate judicial body … considers it reasonable" for there to be a change is more than just a pre-condition; it imports a standard of reasonableness, to be applied in the context of the other statutory provisions, which should guide the tribunal when it is asked to determine the amount of a new pitch fee.

(2) In every case "particular regard" must be had to the factors in paragraph 18(1), but these are not the only factors which may influence the amount by which it is reasonable for a pitch fee to change.

(3) No weight may be given in any case to the factors identified in paragraphs 18(1A) and 19.

(4) With those mandatory consideration well in mind the starting point is then the presumption in paragraph 20(A1) of an annual increase or reduction by no more than the change in RPI. This is a strong presumption, but it is neither an entitlement nor a maximum.

(5) The effect of the presumption is that an increase (or decrease) "no more than" the change in RPI will be justified, unless one of the factors mentioned in paragraph 18(1) makes that limit unreasonable, in which case the presumption will not apply.

(6) Even if none of the factors in paragraph 18(1) applies, some other important factor may nevertheless rebut the presumption and make it reasonable that a pitch fee should increase by a greater amount than the change in RPI."

55 Martin Rodger KC, the Deputy President, then made observations about the reference in the statute to a presumption. In particular, he observed:

"…… the use of a "presumption" as part of a scheme of valuation is peculiar".

56 He concluded his discussion of the law with the following, reflecting the observation in previous judgments:

> 58. ..... I adhere to my previous view that factors not encompassed by paragraph 18(1) may nevertheless provide grounds on which the presumption of no more than RPI increases (or decreases) may be rebutted. If another weighty factor means that it is reasonable to vary the pitch fee by a different amount, effect may be given to that factor."

57 The cases mentioned were primarily concerned with instances where the site owner sought to increase by more than RPI. The facts are not the same as this case.

58 The Tribunal considers that there is a rebuttable presumption and does not mean that the pitch fee determined will necessarily reflect the change in RPI.

59 The strong presumption of an increase or decrease in line with RPI is an important consideration. However, as referred to in the case authorities above, a presumption, where applicable is just that. Even in the absence of factors contained in paragraph 18, the Tribunal shall take account (and give such weight) of such other factors as it considers appropriate it being a matter of the Tribunal's judgment and expertise, in the context of the statutory scheme, to determine the appropriate weight to be given. There is no limit to the factors to which the Tribunal may have regard.

60 The pitch fee, will be the amount that the Tribunal determines taking account of any relevant matters, including any appropriate change determined from the current pitch fee at the time. That may still be the amount sought to be charged by the site owner or may be a different amount.

61 The above case authorities are all established ones on matters involved in this case and the Tribunal is required to apply the law and take account of decisions relevant to the decision to be made in this case.

The Hearing

62 The Application was heard on 8th July 2024 at Salisbury Law Courts. Ms Osler, Counsel, appeared for the Applicants and Mrs Bird, Mrs Burden, Miss Saxon and Mr Young attended in person. Miss Fay (Plot 69) was not present.

63 The decision includes a precis of the hearing only, which was recorded, and is not a verbatim record of every matter raised or discussed. These reasons address **in summary form** the key issues raised by the parties. They do not recite each and every point referred to either in submissions or during any hearing. 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, then it was considered by the Tribunal. The

Tribunal concentrates on those issues which, in its opinion, are fundamental to the application.

64 The Tribunal had to decide first whether it would accept the second statement from Mr Romans submitted to the Tribunal on 6th June 2024. None of the Respondents present objected to the statement being included and the Tribunal determined that the statement would be included as evidence on the basis that the fuller the picture provided should lead to a better or clearer decision by the Tribunal.

65 In essence this second statement states that the damaged pathway referred to by Mrs Bird has been repaired, that a contractor has visited Mr and Mrs Burden to try and assist with the foul smells coming from below their home and to ensure that the storm water drain near Plot 4a is clear

66 Ms Osler had helpfully provided her skeleton argument prior to the date of the hearing, and it was agreed that she did not need to repeat all of its contents verbatim.

67 Mr Romans confirmed his four original statements at [214, 311, 344 and 369] and his second statement submitted on 3rd June 2024 which was not in the main bundle.

68 Mr Romans said that Plot 48 – at present overgrown – would be redeveloped shortly with an additional home.

69 Mr Romans was questioned at some length by the Tribunal and the Respondents about maintenance and a maintenance plan for the site. He said that he relied mainly on the resident Warden- Mr Jures- to keep the site tidy and serviceable, and to report any more substantial maintenance issues. If an issue arose, he relied on independent contractors or engineers to inspect and report to him. He also expected any complaints by residents to be made first to Mr Jures.

70 Questioned about the flooding outside Plot 4a Mr Romans considered that this had occurred on an exceptional day after heavy and prolonged rainfall and that there was no long-term problem. He had asked an independent contractor to look at the drain that is close to 4a and thought that it was now clear. The Tribunal noted it was clear during their inspection.

71 Mr Romans said that he had not seen any of the flooding affecting the plot occupied by Mr and Mrs Burden. Mr Young asked Mr Romans why he had not replied to an email sent on 18th December 2020 which reported the road in front of Plot 4a flooding. Mr Romans did not recall the email in question.

72 He did say that when he had recently redeveloped Plot 31 he had ensured that there was increased drainage within the Plot. An indication that he was cognisant of drainage problems.

73 When questioned whether he accepted that the flooding had been occurring for 4 years he replied that it had been an issue for "many many years".

74 Mrs Bird reiterated some of the points made by her in correspondence already seen by the Tribunal. She thought that the atmosphere within the Park had changed for the worse, that there were more vehicular movements, that the new home at Plot 63 was inappropriate, that the Park rules are not always enforced – she referred to BBQ's -, that more modern homes are larger and thereby the gardens are smaller which leads to greater rainfall run-off.

75 Mr Romans could offer no solution to the flooding of the garden to Mrs Burdens property (Plot 16) and said that the adjacent plot had not changed.

76 Asked directly what he was doing about the reported flooding Mr Romans said that he was continuing to monitor the situation, although accepting it had been an issue for some residents for more than 4 years.

77 In closing Ms Osler reminded the Tribunal and the Respondents that despite them being heard together the Tribunal should consider and determine each of the four cases in isolation as separate applications. She referred specifically to the case of *Sines Parks Holding Ltd v Muggeridge and Ors* CHI/43UB/PHI/2020/0046 0047 0048 and 0049 in which the Tribunal said that " in order for there to be a condition in the amenity of the site, that would have to mean changes which are long lasting or permanent and affect the fabric of the site rather than temporary matters such as an accumulation of litter for a brief period, the presence of vehicles for works or bonfires" and that the Tribunal must consider whether there has been any deterioration/decrease in the condition or amenity of the park in the relevant period.

Decision

78 The Tribunal thanks the parties for their submissions and the way in which their respective case was made at the Hearing. We have carefully considered all that we have seen, all that was said and all of the the documents within the bundle and later submissions.

79 The Respondents' right to station their mobile home on the pitch is governed by the terms of their Written Agreement with the Applicant and the provisions of the 1983 Act.

80 The Notice and prescribed forms proposing the new pitch fee were served more than 28 days prior to the review date.

81 The Tribunal found the site to be in reasonable condition. Parks are living developing areas that do not stay fixed in time and it became clear that there are ongoing improvements evidenced by, in no particular order,

removal of an old shed replaced by an additional home, the removal of some garages from the lower part of the site which has freed up some additional parking, repairs to roads and paths around the site, removal of a home on Plot 48 set to be redeveloped, recent road markings and signage.

82 It is also clear that there are areas where further works will become necessary over time, particularly the garages on the upper garage site and a small area of the pathway through the centre of the site.

83 The Tribunal noted that many former open areas around the individual homes have been paved over which will have exacerbated drainage issues and run off during and after heavy rainfall. There are no stormwater drains around the main part of the site to cope with surface water. Drainage depends on there being suitable areas around each home and the water from the road draining onto individual plots. Increased hardstanding for car parking on many plots will have exacerbated this situation. These problems may have arisen incrementally rather than being caused by a particular event, but it is clear from the photographs provided that there are now particular problems on Mr and Mrs Burden's property (Plot 16) and in front of Miss Saxon and Mr Young's property (Plot 4a).

84 Mr Romans was clear that he had been informed by residents of issues with flooding and that this has been an issue for "many, many years". He gave evidence that he was monitoring the situation but had not taken the promised time to inspect Mr and Mrs Burdens property. The only action he had taken was to ensure that the drain close to plot 4a was cleared.

85 The Tribunal is particularly cognisant and concerned that the flooding in front of Plot 4a is serious enough for Mr Young to construct small dams to keep the water from going under his home, to try and construct a drainage channel from the road through to the field at the rear of his property and that fast-moving vehicles generate a 'wash', thereby spraying the front of his home at Plot 4a.

86 Whilst this has been an issue for some time the Tribunal decides that the flooding has become serious enough to qualify as a deterioration in the amenity of the site as it particularly affects Plot 4a. Accordingly the Tribunal determines that the amenities for Plot 4a are sufficiently prejudiced to justify a freeze of the pitch fee at its previous level of £216.27 per month.

87 The Tribunal considered that the depression in the driveway at the front of Plot 16 is unlikely to have been caused by rainwater. More likely it is that an insufficient base was provided when the drive was first laid, perhaps a tree or bush removed.

88 However, the Tribunal did decide that the flooding of Plot 16 as shown in photographs, and the effects of that flooding, was also serious enough to

constitute a deterioration in the amenity of the site for that Plot, sufficiently prejudiced to justify a freeze of the pitch fee at its previous level of £191.56 per month.

89 Save for the flooding issue on the access road the Tribunal did not agree with the other issues raised by Mrs Bird. During its inspection the Tribunal had found the park to be generally in reasonable order and noted that some improvements had been made over time, although there was clearly scope for future improvements.

90 However, the flooding issue on the access road does affect everyone entering or leaving the site, albeit less severely than Miss Saxton and Mr Young, and has now become serious enough to qualify as a deterioration in the overall amenity of the site. The Tribunal considers it reasonable for the Park Home owners to expect the park owner to provide adequate and serviceable drainage as described in the park licence.

91 Accordingly, the Tribunal determines that the increase in pitch fee for Mrs Bird (Plot 13) and Miss Fay (Plot 69) shall be limited to 50% of the proposed figure, that is an increase of 5.7%.

92 Therefore, the pitch fee for Plot 13 is £205.51 per month from 1st July 2023 and the pitch fee for Plot 69 is £170.11 per month from 1st July 2023.

93 Accordingly, the Tribunal determines that the pitch fee for:

- 13 Hillbury Park, Hillbury Road, Alderholt, Fordingbridge, Hampshire, SP6 3PW is £205.51 per month from 1st July 2023.
- 16 Hillbury Park, Hillbury Road, Alderholt, Fordingbridge, Hampshire, SP6 3PW is £191.56 per month from 1st July 2023.
- 4a Hillbury Park, Hillbury Road, Alderholt, Fordingbridge, Hampshire, SP6 3PW is £216.27 per month from 1st July 2023.
- 69 Hillbury Park, Hillbury Road, Alderhot, Fordingbridge, Hampshire, SP6 3PW is £170.11 per month from 1st July 2023.

Right to Appeal

1. A person wishing to appeal this decision to the Upper Chamber must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision. Where possible you should send your further application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal to deal with it more efficiently.

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 28day 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.