



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

<b>Case Reference</b>	:	(i) CHI/29UH/PHI/2023/0003 (ii) CHI/29UH/PHA/2023/0001
<b>Property</b>	:	16 Meadow View, Pilgrims Retreat, Hogbarn Lane, Harrietsham, ME17 1GL
<b>Applicant</b>	:	Mr Phillip Robling
<b>Representative</b>	:	N/A
<b>Respondent</b>	:	Simes Parks Luxury Living Ltd
<b>Representative</b>	:	Mr Mullen of Counsel Instructed by Apps Legal Ltd
<b>Type of Application</b>	:	(i) Review of Pitch Fee: Mobile Homes Act 1983 (as amended)  (ii) Application by an occupier of a Park Home on a protected site for an order that the site owner give the occupier a written statement as to the terms of their agreement.
<b>Tribunal Members</b>	:	Mrs J Coupe FRICS Mr D Ashby FRICS Mr C Davies FRICS
<b>Date &amp; Venue of Hearing</b>	:	14 May 2024 – Ashford Tribunal Hearing Centre
<b>Date of Decision</b>	:	22 July 2024

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**DECISION**

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## Summary of Decision

**The Tribunal determined that the land upon which the Applicant's home is sited is not a protected site within the meaning of the Mobile Homes Act 1983 (as amended). The Tribunal therefore has no jurisdiction to determine the reviewed pitch fee.**

**Accordingly, the Tribunal determined that it has no jurisdiction to order the site owner to provide the Applicant with a written statement as to the terms of their agreement.**

The reasons for the Tribunal's decision are set out below.

## **REASONS**

### Background

1. The Respondent is the owner of Pilgrims Retreat ("the site"). The Applicant is the owner of a park home on the site, the pitch known as 16 Meadow View. The Respondent states that the Applicant occupies the pitch by virtue of a Licence Agreement for a 'Leisure Home', an unsigned copy of which was provided.
2. On 23 April 2012 Maidstone Borough Council granted planning permission relating to occupation of pitches on the site. [225]
3. By way of a Caravan Site Licence in favour of Sines Park Homes, dated 30<sup>th</sup> April 2018 Maidstone Borough Council granted permission, pursuant to Section 3 of the Caravan Sites and Control of Development Act 1960 for a number of permanent residential mobile homes; holiday caravans/mobile homes; and static holiday caravans/mobile homes to be stationed on the site. [191]
4. On 18 November 2022 a letter addressed to the Applicant and his wife was served by way of a Pitch Fee Review Notice with the prescribed Form, detailing the proposed new pitch fee of £412.81.90 per month with effect from 1 August 2022. The Respondent calculated the increase in line with the Retail Prices Index ("RPI") from October 2022, that being 14.2%.
5. The Applicant did not agree to the increase and, on 5 January 2023, the Applicant sought a Tribunal determination of the matter. No challenge as to the validity of the Notice was raised by the Applicant.
6. These reasons address in **summary form** the key issues raised by the parties. They do not recite each point referred to in submissions but concentrate on those issues which, in the Tribunal's view, are fundamental to the determination.

### Procedural History

7. On 16 March 2023 the Tribunal struck out the application in accordance with Rule 9(2)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 on the grounds that the Tribunal did not have

jurisdiction in relation to the proceedings.

8. The Applicant appealed to the Upper Tribunal and, on 8 January 2024, the application was restored and parties were granted permission to seek Directions from the Tribunal, which were duly sought and provided.
9. On 15 May 2023 the Applicant made a further application for an order that the site owner provide the occupier with a written statement as to the terms of his agreement.
10. On 2 April 2024 Tribunal Directions were issued which consolidated the two applications and advised the parties that both matters would be dealt with at the same hearing. Directions to progress the applications to a final hearing, which was subsequently set down for the 14 May 2024, were issued.
11. On 12 February 2024 the Respondent made an application for a case management order requiring a determination, as a preliminary issue, as to whether the land on which the Applicant's mobile home is sited is a protected site. The application was refused on the 19 February 2024 with Regional Judge Whitney advising that the Tribunal would consider the points raised in the case management application, the preliminary issue and the two applications at the hearing.
12. In accordance with the Directions the Tribunal were provided with a hearing bundle extending to 272 electronic pages. References in this determination to page numbers in the bundle are indicated as [ ].

### **The Law**

13. The relevant law is set out in the Mobile Homes Act 1983 (as amended) ("the Act").
14. Section 1(1) of the Act provides as follows:
  - (1) *This Act applies to any agreement under which a person ("the occupier") is entitled –*
    - (a) *To station a mobile home on land forming part of a protected site; and*
    - (b) *To occupy the mobile home as his only or main residence.*
15. Section 1(2) of the Act states:

*Before making an agreement to which this Act applies, the owner of the protected site ("the owner") shall give to the proposed occupier under the agreement a written statement which ...*
16. Section 1(6) of the Act states that if the owner has failed to give the occupier a written statement in accordance with subsection (2) to (4) above, the occupier may at any time after the making of the agreement apply to the appropriate judicial body for an order requiring the owner –
  - (a) *To give him a written statement which complies with paragraphs (a) to (e) of subsection (2) ... and*
  - (b) *to do so not later than such date as is specified in the order.*

17. The Tribunal derives its jurisdiction to determine disputes in these matters by virtue of Section 4(1) of the Act which states as follows:
- (1) *In relation to a protected site a tribunal has jurisdiction –*
- (a) *To determine any question arising under this Act or any agreement to which it applies; and*
- (b) *To entertain any proceedings brought under this Act or any such agreement,*
- Subject to subsection (2) to (6)*
18. Section 5 of the Act provides the definition of “Protected site” as follows:
- “protected site” does not include any land occupied by a local authority as a caravan site providing accommodation for gypsies or, in Scotland, for persons to whom section 24(8A) of the Caravan Sites and Control of Development Act 1960 applies but, subject to that, has the same meaning as in Part I of the Caravan Sites Act 1968.”*
19. Section 1(2) of the Caravan Sites Act 1968 defines “protected site” as follows:
- “for the purposes of this Part of this Act a protected site is any land in England in respect of which a site licence is required under Part I of the Caravan Sites and Control of Development Act 1960 or would be so required if paragraph 11 or 11A of Schedule 1 to that Act (exemption of gypsy and other of Schedule 1 to that Act (exemption of local authority sites) were omitted, not being land in respect of which the relevant planning permission or site licence –*
- (a) Is expressed to be granted for holiday use only; or*
- (b) Is otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be stationed on the land for human habitation.”*
20. Under the Act, terms are implied into all agreements to which the Act applies. Those implied terms are set out in Chapter 2 of Part 1 of Schedule 1 of the Act.
21. The relevant terms for the purposes of a pitch fee review are set out at paragraphs 16-20 of that part of the Schedule. In summary, a review of a pitch fee is governed by three statutory principles:
- i. The pitch fee can only be changed either with the agreement of the occupier or by determination by the Tribunal;
  - ii. The pitch fee shall be reviewed annually as at the review date;
  - iii. A presumption that the fee will increase or decrease in line with the variation in the Retail Price Index (“RPI”).
22. Paragraph 16 states that a pitch fee can only be changed in accordance with paragraph 17, either –
- (a) *With the agreement of the occupier, or*
- (b) *If the appropriate judicial body, on the application of the owner or the occupier, considers it reasonable for the pitch fee to be changed and makes an order determining the*

*amount of the new pitch fee.”*

23. Paragraph 17(4)(a) states that where the occupier does not agree to the proposed new pitch fee *“the owner [or . . . the occupier] may apply to the [appropriate judicial body] for an order under paragraph 16(b) determining the amount of the new pitch fee.”*
24. Paragraph 17(5) provides that *“An application under sub-paragraph (4)(a) may be made at any time after the end of the period of 28 days beginning with the review date [but . . . ] no later than three months after the review date[.”*
25. Paragraph 18 requires the Tribunal, in determining the new pitch fee, to have regard to particular factors:
  - i. Any sums expended by the site owner since the last review date on improvements;
  - ii. Any deterioration in the condition and any decrease in the amenity of the site;
  - iii. Any reduction in the services provided by the site owner and any deterioration in the quality of those services;
  - iv. Any legislative changes affecting costs.

### **The Inspection**

26. The inspection preceded the hearing on the morning of 14 May 2024 and was attended, in addition to the Tribunal members, by Mr Robling the Applicant and by Mr Mullens, Counsel for the Respondent, and Miss Apps, instructing Solicitor. A number of observers were also in attendance. The inspection took approximately one hour.
27. The Tribunal Chairman explained that the attendees were welcome to indicate areas that they wished the Tribunal to view and upon which they would later rely on in the hearing but that the Tribunal would not take any evidence during the inspection nor have regard to any comment passed at the inspection.
28. The Tribunal observed the overall condition of the Park as highlighted by the Applicant and the Respondents within their written submissions but did not undertake a formal survey of any part of the Park.
29. The Tribunal is mindful that the inspection was carried out some considerable time after the date upon which the Pitch Fee Review Notice was served and from the date upon which the proposed new pitch fee became payable. The inspection is only capable of showing the condition of the Park as at the date of inspection and not as at any other date. That said, it was helpful for the Tribunal to view not only the configuration and amenity of the site but as an aid to visualisation when the parties later referred to specific factors in evidence during the hearing.
30. The inspection commenced from the Site Office, just a short distance inside the double gated entrance to Pilgrims Retreat, where a few small

potholes were noted. The Tribunal observed an area of woodland directly opposite the entrance, which appeared open to residents use.

31. Upon entering the Park a roadside sign announcing Pilgrims Retreat reads *“Residential & Leisure Homes always available. Open 7 days a week. 365 days a year. P/X available.”*
32. The site office is housed in a modern building with facilities within which to meet residents and to observe the CCTV footage from cameras located at various points around the Park. An accumulation of cameras was noted around the site office and recreational facilities.
33. The configuration of the site and the location of those homes with planning permission for permanent residential occupation were explained to the Tribunal.
34. The Applicant’s home is located near the furthest point of the site and it was sensibly agreed that Mr Robling was driven to the relevant area by his daughter, whilst the Tribunal and the Respondents’ representatives, at a distance from each other, made their way on foot via the road network. The return route was undertaken in the same manner.
35. The unmade road leading to Clinton Wood Close and Valley View was inspected and found to be uneven and loose under foot.
36. The location of the cesspits was pointed out to the Tribunal, who noted that the pits were currently free flowing.
37. A number of street lights, stated to be out of working order, and areas with no or suggested inadequate lighting were identified.
38. The Tribunal were shown an indoor swimming pool, which was closed for refurbishment on the day of inspection, a licensed clubhouse, and the location of a small gym, none of which were necessary to internally inspect.

## **The Hearing**

### **Preliminary Matter**

39. The Tribunal first heard representations from Mr Mullen in regard to the Respondent’s Case Management Application dated 12 February 2024. The application requested that the issue as to whether the land on which the Applicant’s mobile home is stationed is a protected site be determined as a preliminary issue. The application was refused by Regional Judge Whitney on 19 February 2024. However, the Respondent was entitled to renew the application at the hearing and did so.
40. The substance of Mr Mullen’s application and Mr Robling’s response are detailed further in this report.
41. The Tribunal indicated that it would hear evidence on all points in dispute prior to making its determination on the preliminary point.

## **Discussion and Determination**

42. The applications and the arising preliminary matter concern three points:
- (1) Is the land upon which the Applicant's mobile home stationed a protected site as defined in the Act and, accordingly, a plot to which the Act applies and to which the Applicant is entitled to a written statement as to the terms of his agreement?
  - (2) Was the Applicant's application submitted within the time provisions contained within the Act?
  - (3) If both of the above are affirmative, determination of the reasonable pitch fee at the relevant date.

### **Point 1 – Submissions & Evidence**

43. The Applicant's occupation of their mobile home commenced on 10 October 2017 under an agreement termed 'Licence Agreement for a Leisure Home' [209].
44. At page 1, bullet point 1, of the agreement, beneath the heading 'Introduction and Summary of the Agreement' it is stated that *'This agreement permits you to station a leisure home on the park and to occupy it for leisure and recreational purposes. It details the licence period during which you can use it and other information such as the amount of the Pitch Fee payable to the Park Owner.'*
45. At clause 2 of the Licence Agreement [213] permission to station the leisure home is said to be granted on the following basis: *'As long as you comply with this Agreement we permit you throughout the licence period to station the leisure home on a pitch on the Park and to occupy it each Season during the Licence Period.'*
46. The 'Season', defined as the period during which the Leisure Home may be occupied [212], is noted at Part 1 Particulars as *'All Year Round'*. [210]
47. At clause 3 *'Your Obligations'* the Licence Agreement states *'To use the Leisure Home only as Leisure accommodation'*.
48. Clause 7 of the Licence Agreement provides a mechanism by which the pitch fee may be varied.
49. Mr Mullen referred the Tribunal to the legal framework of the Mobile Homes Act 1983 and in particular to Section 1(1) which states that the Act applies to any agreement under which a person ("the occupier") is entitled to station a mobile home on land forming part of a protected site and to occupy the mobile home as his only or main residence.
50. It is the Respondent's position that the Licence Agreement, by which the Applicant and his wife occupy their mobile home, does not entitle them to occupy their 'Leisure Home' as their main or only residence. Instead, the Respondent contends that the Licence Agreement allows the occupier to station the mobile home and to occupy it at any time of the year but for leisure or recreational purposes only. Accordingly, the Tribunal's jurisdiction is not engaged as the Applicant's Licence Agreement is not afforded the protection of the Mobile Homes Act 1983.

51. The site known as Pilgrims Retreat extends to 217 mobile homes, only 18 of which have planning permission for permanent residential use, the remainder being subject to planning and Site Licence conditions restricting their occupation to leisure purposes.
52. There is a planning dispute on Pilgrims Retreat where the planning history and the interpretation of the relevant planning permission is the subject of ongoing investigation by Maidstone Borough Council. An Injunction Order in regard to the site was issued in the High Court of Justice dated 18 April 2019. A copy was provided at the hearing and will be returned to later in this decision.
53. Mr Mullen referred the Tribunal to a variation to planning permission MA/03/2343, dated 23 April 2012, whereby permission was granted on various terms, pursuant to the Town and Country Planning Acts by the Directorate of Change, Planning and Environmental Services (Maidstone), subject to the following conditions [225-226]:

*“All accommodation units (excluding the 19 caravans previously permitted for permanent residential use) permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person’s sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home address, and shall make this information available at all reasonable times to the local planning authority.*

*Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residence, which would be contrary to National and Local Plan Policy discouraging the proliferation of new dwellings in the countryside and in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.”*

54. Caravan Site Licence dated 20 April 2018 granted by Maidstone Borough Council pursuant to the Caravan Sites and Control of Development Act 1960 contained the following Conditions [193]:

*“Density, Space and Operational Control between caravans  
Area outlined in Green on plan*

*2. Not more than 18 permanent residential mobile homes shall be stationed and occupied within the area outlined in green on the attached plan at any one time ...*

*3. Not more than 9 Holiday/Caravans/Mobile Homes shall be stationed and occupied in the areas outlined in green on the attached plan at any one time ...*

*These Holiday Caravans/Mobile Homes shall only be occupied for holiday use and no other type of occupancy is permitted. No such accommodation shall be occupied as a person’s sole or main place of residence.*



Area outline in Black on plan

*4. Not more than 171 static holiday/caravans/mobile homes shall be stationed within the area outlined in black on the attached plan at any one time and these caravans/mobile homes shall only be occupied for holiday uses and no other type of occupancy is permitted. No such accommodation shall be occupied as a person's sole or main place of residence."*

55. Mr Mullen asserted that it was common ground between the parties that the Applicant's pitch was not one of the pitches for which planning permission and the site licence provided for permanent residential use. Mr Mullen stated that, as a consequence, the land upon which the Applicant's mobile home is sited does not form part of a protected site. The Act is therefore not applicable to this pitch. Accordingly, both the pitch fee application and the application for a written statement fall outside of the Act and therefore the Tribunal's jurisdiction.
56. The Respondent conceded that service of the Pitch Fee Review Notice and associated documentation had indicated to the Applicant that the Respondent considered themselves bound by the legislation. However, it was stated that service of such was an administrative error and one that had been rectified by the Respondent advising those home occupiers on leisure licences that the Notices were revoked.
57. Mr Roblin, whilst accepting that the plot upon which his mobile home is stationed is not one for which permanent residential use had been granted nevertheless argued that he was entitled to the protection of the Act for the following reasons:
- i. By issuing the Pitch Fee Review Notice the Respondent accepted that the Applicant was entitled to rely on statute and challenge the proposed new pitch fee.
  - ii. The Applicant had, in full knowledge of the Respondent, occupied their mobile home as their sole or main place of residence since purchase and has paid council tax as such.
  - iii. On no occasion had the Respondent requested the Applicant provide an alternative residential address.
  - iv. The Respondents had failed to maintain a register of alternative addresses as required, thereby implying knowledge that plots were being permanently occupied.
  - v. The planning status and Site Licence conditions had not been disclosed to the Applicant at point of purchase.
  - vi. The Applicant had been discouraged by the Respondent's sales team to seek independent legal advice on the purchase.
  - vii. The Licence agreement provided by the Respondent had never been signed by the Applicant, albeit due to concerns over other terms.

**Point 2 – Submissions & Evidence**

58. The pitch fee review date is 1 January. Notice of the proposed new pitch fee, that being £412.82 per month in line with the Retail Price Index for October 2022 of 14.2%, was served on the Applicants on 18 November

2022, effective from 1 January 2023. No challenge to the validity of the Notice was raised by the Applicants.

59. The Applicant's application to the Tribunal was received by the Tribunal on 5 January 2023, four days after the review date of 1 January 2023.
60. The Respondent states that, applying paragraphs 17(4)(a) and (5) of the terms implied into all mobile home agreements under the Act whereby an application may only be made to the Tribunal after the end of the period of 28 days beginning with the review date, the Applicants' application was made to the Tribunal too soon. The Respondents suggests that the Tribunal's jurisdiction to determine the new pitch fee under paragraph 16(b) of the terms implied into agreements under the Act has therefore not been engaged.

### **Point 3 – Submissions & Evidence**

61. The grounds upon which the Applicant challenges the pitch fee review can be summarised as follows:
  - i. The proposed new pitch fee, at £51.33 (12.2%) is "*an excessively big jump*";
  - ii. Parliament has enacted legislation requiring future increases to be based upon CPI rather than the traditionally higher measure of RPI;
  - iii. Many home owners are pensioners with limited means;
  - iv. The cost of living crisis continues to adversely affect disposable income;
  - v. No written explanation of the reasons for the increase have been provided;
  - vi. The site owner has failed to maintain a register of home owners names and addresses;
  - vii. Lack of co-operation and alleged poor character of the Site Owner;
  - viii. Deterioration in the condition and amenity of the site:
    - a. Unmade road leading to Clinton Wood Close and Valley View resulting in resident accidents
    - b. Cesspit issues
    - c. Damaged, inoperative and inadequate street lighting
    - d. Inadequate surface drainage resulting in flooding
    - e. Lack of street parking; lack of parking at the site office and clubhouse
    - f. Limited opening of site office contrary to the entrance sign advertising 365 days/year
    - g. Reduced staff
    - h. Reduced CCTV coverage on site, in particular in the gym and swimming pool
    - i. Health and safety risks
    - j. Lack of investment by the site owner and inappropriate application of insurance monies.
62. In response, the Respondent denied that the site entrance signage indicated that the site office was open 24 hours a day, 365 days per week, which would be an unreasonable expectation, but, instead, that the signage indicated the site itself was open all year round.

63. The site is covered by 21 operating CCTV cameras linked to screens in the site office or accessible from staff's mobile phones. Cameras were removed from the gym and swimming pool on privacy grounds and at the residents' request.
64. An Injunction Order handed down by the High Court of Justice on 18 April 2019 following a dispute with Maidstone Borough Council prohibited "*any works in relation to the formation of paths, roadways or any works including the provision of sewerage, water drainage, water or electricity infrastructure associated with the use of any further caravans and/or mobile homes for the purpose of human habitation or residential occupation or holiday or recreational use.*" Accordingly, all finishing works to road surfaces and infrastructure, had been halted.
65. Insurance monies in regard to the cesspit are being held awaiting resolution of the Injunction Order prohibiting works. Interim repairs and general maintenance continue to be undertaken.
66. No evidence of site flooding has been advanced by the Applicant. Photographs submitted simply show surface water accumulation following heavy rainfall.
67. Regular maintenance is undertaken across the site, irrespective that residents may not always witness such work.
68. In Spring 2023, the Respondent experienced staffing issues and, on occasion, the site office was open to residents only 1 day per week, although telephone contact remained available.
69. Street lighting repairs have been undertaken when reported and additional lighting installed in some parts of the Park. Where the Applicant considers street lighting to be inadequate this can neither be considered a deterioration in the condition of the site nor of the amenity of the site as such lighting was never in place.
70. No evidence is before the Tribunal that residents have experienced difficulties accessing the site roads or paths.

### **Findings of Fact & Determination**

71. On **Point 1**, whether the Mobile Homes Act 1983 applies to the Applicant's agreement by virtue of the land upon which the home is sited not being a protected site, the Tribunal finds as follows:
72. The plot upon which the Applicant's mobile home is sited is land in respect of which the relevant planning permission and site licence is expressed to be granted for holiday use only. Accordingly, the Tribunal finds that the land does not meet the definition of a protected site pursuant to Section 1(2) of the Caravan Sites Act 1968.
73. Further to the above finding, the Tribunal next finds that the Mobile Homes Act 1983 does not apply to the Applicant's agreement as the Applicant's plot

does not meet the definition of a protected site and nor are the Applicants entitled to occupy their mobile home as their only or main residence, irrespective that the Tribunal finds that the Applicants have occupied their mobile home, unchallenged by the Respondent, as their only or main residence since purchase in October 2017.

74. The Tribunal finds that the parties are in agreement that the Applicant's plot has neither planning permission for permanent residential use nor falls within a permanent residence in accordance with the relevant Site Licence.
75. The Tribunal finds that the Applicant's site licence is unsigned. However, the reason for a lack of signature was an unrelated dispute between the parties.
76. Contrary to the planning permission, the Tribunal finds that the Respondent has not maintained a register of occupiers and their main residential address.
77. Accordingly, the Tribunal finds that the land upon which the Applicant's mobile home is sited falls outside the protection of the Act. The Tribunal therefore has no jurisdiction in regard to an application for determination of a Pitch Fee Review Notice and nor does the Tribunal have jurisdiction to order the site owner to provide the Applicants with a written statement pursuant to Section 1(6) of the Mobile Homes Act.
78. On **Point 2**, whether the Applicant's application to the Tribunal was made within the time frame set down by statute, the Tribunal finds as follows.
79. The pitch fee review Notice was served on the Applicants on 18 November 2022. The effective date of the new pitch fee was 1 January 2023. The Applicant's application to the Tribunal was received on 5 January 2023.
80. Paragraph 17(4)(a) of the Act provides that where an occupier does not agree to the proposed new pitch fee the owner or occupier may apply to the Tribunal for determination of the new pitch fee. Paragraph 17(5) requires any such application to be made at any time after the end of the period of 28 days beginning with the review date but no later than three months after the review date.
81. The Tribunal finds that the Applicant's application was submitted prior to the 28-day period beginning with the review date of 1 January 2023. Accordingly, the Tribunal finds that the application was not made within the time period permitted and, as a consequence, the Tribunal has no jurisdiction to determine the pitch fee review.
82. However, the Tribunal also finds that the only application before them for determination of the pitch fee review is that submitted by the Applicants. The Respondent has not made a similar application. Paragraph 16 of the Act states that a pitch fee can only be changed either with the agreement of the occupier or if the appropriate judicial body (the Tribunal), 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.
83. In this instance, the Tribunal has found that the Applicant's application was not made within the time period granted. However, it remains that the

Applicant has not agreed the new pitch fee and neither has the Respondent submitted an application for determination of the point. Had the Tribunal's jurisdiction been engaged following determination of Point 1, the Tribunal would have found that in accordance with Paragraph 16, and in the absence of an application from the Respondent for determination of the pitch fee, the pitch fee cannot be changed. **It should be stressed that this is only of relevance if the Tribunal is wrong on Point 1.**

84. On **Point 3** – had the Tribunal determined that it did have jurisdiction to determine the new pitch fee it would have made the following findings and determination on the amount of the new pitch fee payable.
85. On the day of inspection, the Tribunal found the Park to be neat, tidy and well presented, although, as previously stated, our inspection took place some considerable time after the pertinent date.
86. The Tribunal finds it inconceivable that the intention of the entrance signage is to advertise the site office as open 24 hours a day, 365 days per year, a point the Applicant appeared to concede in cross examination.
87. The unmade road leading to Clinton Wood Close and Valley View was noted to be relatively steep and rough/uneven underfoot. However, this, in the main, only affects the limited number of residents and their visitors accessing their homes via this route and had virtually no impact on the Applicant. The hearsay evidence of the Applicant that two residents had incurred injury by way of a fall on the rough surface was not substantiated by witness statements.
88. The street lighting around the site was noted to be inconsistent, with some areas well-lit and others not so. The Tribunal did not consider such to be either a deterioration in the condition nor amenity of the site, as such lighting had not formed part of the Park's infrastructure.
89. The lids to the cesspits were lifted during the inspection and the Tribunal noted the chambers to be free flowing.
90. A number of potholes were noted on site. However, the Tribunal found these to be small in diameter and such areas simply in need of routine general maintenance.
91. The Tribunal found the CCTV system to be in good working order. The Tribunal accepted the Respondent's explanation that cameras in the gym and swimming pool had been removed on privacy grounds.
92. In conclusion, had the Tribunal determined that its jurisdiction had been engaged in this application, the Tribunal would have found that the presumption in favour of an increase in line with the relevant RPI had not been displaced either by a deterioration in the condition of the site nor as a result of any deterioration in the amenity of the site.

## **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.