FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**CHI/46UC/PHI/2023/0563**
Property	:	**36 Bungalow Park** **Bradenstoke** **Wiltshire** **SN15 4EP**
Applicant	:	**R S Hills and Sons Limited**
Representative	:	**Mr J Clement & Ms C Barnes** **IBB Law**
Respondent	:	**Ms Geraldine Fish**
Representative	:	**None**
Type of Application	:	**Review of Pitch Fee and any other matter: Mo Homes Act 1983 (as amended)**
Tribunal Members	:	**Mr I R Perry FRICS** **Mr M R Jenkinson** **Mr J S Reichel MRICS**
Date of Inspection and Hearing	:	**5th September 2024**
Date of Decision	:	**16th September 2024**

DECISION

Summary of Decision

The Tribunal determines the pitch fee for 36 Bungalow Park from 1st April 2023 is £164.51 per month.

The Applicant must bear the fees of this application.

Background and Procedural History

1. On 26th May 2023 the Applicant site owner applied on Tribunal form PH09 for a determination of a revised pitch fee payable by the Respondent for 36 Bungalow Park ("the Home") with effect from 1st April 2023 which the covering email identified as being the dispute.

2. It was proposed that the pitch fee for the previous year, said to be £183.78 per month, would increase to a new figure of £208.40 per month. The proposed increase would be for 13.4%, this being the annual increase in the Retail Price Index ("RPI") for January 2023.

3. Bungalow 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.

4. The Respondent is entitled to station the 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.

5. A Pitch Fee Review Notice with the prescribed form proposing the new pitch fee was served on the Respondent on 24th February 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"), from £183.78 per month to £208.40 per month. The date of the notice is 24th February 2022 (sic).

6. The review date in the Agreement is 1st April in each year. No recoverable costs or relevant deductions were applied.

7. The Respondent did not agree to the increase and the case was referred to the First-Tier Tribunal Property Chamber (Residential Property). The Tribunal received an application for a determination of the pitch fee increase on 26th May 2023.

8. The Tribunal issued Directions on 12th January 2024 identifying the dispute about the pitch fee and setting out dates for compliance by the parties preparatory to a determination on the papers.

9. There was some confusion over the service of documents so the Tribunal issued further Directions on 20th February 2024 to the effect that the matter would be dealt with by way of a hearing to be preceded by a site inspection.

10. Due to a fire at the Swindon Courts the original hearing was postponed until 5th September 2024 when a hearing took place at Swindon Magistrates Court preceded by a site inspection at 10.00 am on that same day.

Written cases received

11. The Tribunal was provided with an electronic bundle of some 109 pages. References within square brackets [ ] refer to the electronic numbered page within the bundle. The bundle included the Application Form PH09, the Respondent's Reply, the Applicant's Reply, the Respondent's Response and the Applicant's Supplemental Reply.

12. Furthermore, the bundle included the two Direction Orders, the Respondent's MHA Agreement, a letter from Respondent to Applicant, a Surveyor's Report from Mr Gordon Colbourne, an RPI Data sheet, the Pitch Fee Review Form and Notice, and a Statement of Arrears.

13. On Friday 30th August 2024 the Tribunal received additional documents from the Applicant. The Tribunal Office requested that the Applicant complete a case management application which was received on Tuesday 3rd September 2024, two days prior to the Hearing. The documents concerned were a copy of the site licence, which had been requested in the original directions, and an updated note of pitch fee arrears as asserted by the Applicant. It was asserted in the case management application that, "The issue of arrears said to be owed by the Respondent is a live issue in the application", although that statement was not explained.

14. The Respondent had been sent copies of the documents on 30th August 2024 and had objected to their late submission on the basis that it was too late for her to read and respond to the site licence and that the arrears are disputed and are "not part of this case".

15. The Application by the site owner [Page 2] dated 26th May 2023 states that the date of the last review was 1st April 2022 when a new fee of £183.78 had been agreed by the Respondent, and that the Respondent took occupation of the Home on 17th December 2004.

16. The Respondent's Reply to the Tribunal dated 18th January 2024 [Page 10] asserted that an upward review of the pitch fee was entirely without merit on the basis that the Applicant had not maintained the ground comprising the base for the Home and its garden. Some 4 years ago subsidence had occurred resulting in her garden being unusable and the Home suffering major irreparable structural damage. The Respondent stated that the ground continues to move, and as a result the Home is in a condemned state.

17. The Applicant's Response dated 16th February 2024 [Page 13] sets out the Applicant's interpretation of the legal background to a pitch fee review and states that they accept that some ground movement occurred to the Respondent's pitch in or around 2020 because of the failure of a retaining wall.

18. The Applicant states that the wall was repaired in 2021 and a report from an independent surveyor (Gordon Colbourne MRICS of Eddisons) dated 12th December 2022 [Page 79] following a site inspection on 23rd September 2023 (sic) concluded that "there is no evidence of continued ground movement after relevelling of the paving at the bottom of the rear steps in 2021. Stability appears to have been achieved." A copy of Mr Colbourne's report was attached to that reply.

19. This report included photographs from a site visit in March 2020 [Page 94] which showed the external steps at the rear of the Home and a view of the garden from the steps showing a concrete slab paved area, displaced patio and concrete paving. Further photographs taken in September 2022 [Page 95] showed "View of steps to rear of No 36 with additional separation compared to March 2020 requiring a ceramic tile 'bridge' to top step landing".

20. The Applicant states that the Respondent has retained solicitors to deal with a separate claim about the pitch in another court, and that this is not an issue which should be considered as part of the proposed pitch fee increase. The Applicant states that for the avoidance of doubt the Applicant denies that it is liable for any damage to the Respondent's Home.

21. The Applicant invited the Tribunal to determine that the pitch fee should be increased by 13.4% to £208.40 per month with effect from 1st April 2023. The amount of the pitch fee said to have been agreed from 1st April 2022 is stated within the notice of increase to be £183.78.

22. In her response dated 29th February 2024 [Page 16] the Respondent asserts that the Applicant has failed to abide with the terms of their contract as her garden has been unusable for 4 years, her house is damaged beyond repair and condemned. She also states that at the age of 73 her health is affected due to living in a damp and cold environment.

23. The Respondent asserts that it is inappropriate for there to be an increase in the pitch fee at the present time and the Application should be dismissed. She refers to Paragraph 20(A1) Schedule 1 Part 1 of the Mobile Homes Act 1983 ("the Act") that provides for a presumption of a pitch fee increase "unless this would be unreasonable" should not apply as the threshold of unreasonableness has been substantially passed.

24. The Respondent states that Mr Colbourne's report is based on an inspection which was 17 months prior to her own response to the Tribunal, and she is certain that there has been further movement.

25. The Respondent provided the Tribunal with a brief history beginning with her purchase of the Home in May 2016 when the garden and the Home were both in excellent condition. She carried out several improvements. She states that in 2019 she noted movement in the surface of the garden and made several requests to the park owners for remedial action, but none was taken. She did not receive any response.

26. When the Respondent first moved into the Home the rear boundary of her plot, also the rear boundary of the site, was formed by a concrete block retaining wall as the agricultural land to the north is several feet below the level of the park home plots. Within the agricultural land there is a row of large trees.

27. In 2020 the Respondent noticed further ground movement or subsidence affecting the Home and garden. She felt this was serious enough for her to write to the Park owners stating that she was withholding her site rent until they took action [Page 78].

28. She reported the issue to her insurers who commissioned a survey report which included drilling bore holes within the plot. The conclusion was that there was subsidence which was due to inadequate ground preparation and a poorly constructed retaining wall.

29. At some point the rear retaining wall had collapsed into the field at the rear and a section of the garden of the Home fell into the field. The site owners replaced the block wall with the present retaining structure and backfilled the garden.

30. The Respondent entered into dispute with the Applicant through her solicitors. She states that on the 20th June 2023, some 3 years later, the Applicant eventually accepted responsibility for "the base on which the Home is stationed" and they offered to replace the base subject to certain conditions. A site meeting of the parties' surveyors took place on 5th October 2023, but the Respondent states that no response has been received from the Applicant since that meeting.

31. The Respondent asserts that the subsidence has meant that she has been unable to have the use of her garden, and the Home has now deteriorated to the extent that it is now unsaleable Her solicitors have drafted a legal claim against the Applicant for her losses which she calculates will be "in six figures".

32. A letter from the Respondent's solicitors to the Applicant was provided [Page 19] in which it is asserted that the subsidence within the plot has caused significant rotation of the structure of the Home, exposed edges of concrete paths, caused rotation of the rear steps from the Home to the garden, broken up paths and patio areas and that there are odours permeating from the ground due to separation between the patio and the foul drainage manhole.

33. A letter from the Applicant's representative's [Page 21] states that the Applicant proposes to replace the existing base of the Home with a new one which would be constructed to current industry standards, but this would necessitate the temporary removal of the Home from the plot.

34. With her response the Respondent included a preliminary report prepared by Ms Natasha Bryant of the Jacksons Partnership Limited [Page 27] who inspected the Home on 8th July 2020 on instructions received from the Respondent's insurers. Ms Bryant concludes that subsidence has taken place most likely due to settlement of the assumed made up ground and the failure of the rear retaining wall which has been exacerbated by surface water downpipes discharging directly into the ground. She also describes signs of wear to the building, significant rotation of the structure, distorted window frames, possible damage to foul drain connections and disturbance to the garden levels.

35. On the advice of Ms Bryant some trial pit excavations were made on the site on 25th August 2020 by Mr William Dale MEng (Hons) CEng MCIHT GMICE of William Dale Consulting Engineering which she felt ratified her original conclusion that the subsidence or settlement was due to inadequate ground make up and failure of the retaining wall.

36. Mr Dale states in an email dated 26th July 2023 [Page 31] that the Home stands on made up ground which was placed during the levelling of the ground within the Park, and it is likely that there was no, or inadequate compaction.

37. The Respondent also included extracts from a further expert witness report provided for the Respondent by Easton Bevins [Page 32] which concluded that the Home has moved considerably due to unconsolidated subsoil beneath the base but the home itself is now in such poor condition as to render it incapable of being safely removed from its present position.

38. The parties are involved in litigation and the Tribunal was provided with some correspondence between solicitors acting for the parties including Particulars of Claim by the Respondent against the Applicant [Page 36]. This litigation is not the concern of this Tribunal but from all of the evidence given to this Tribunal it seems that the parties agree that the base on which the Home stands is unstable but can only be a properly repaired by complete rebuilding. This in turn would involve the temporary removal of the Home, but the Home is so damaged that it cannot be temporarily removed safely and then replaced.

39. The Applicant's supplemental response [Page 41] states that the retaining wall was repaired in 2021 and the Applicant relies on Mr Colbourn's report that there has been no further ground movement since the repairs.

40. The Applicant had arranged for a contractor to inspect the Home on 24th January 2024 to advise on the temporary removal of the Home.

41. The Applicant asserts that they rely on a report by David Vestey MRICS dated 13th October 2022 which concluded that the damage to the Home has been caused "at least in part by overloading of the floor joist and chassis".

42. The Applicant does not accept that the Respondent has not agreed to any pitch fee increases since 2020, although it is agreed that the Respondent wrote on 12th January 2020 to say that she would be withholding her pitch fee until such time as the pitch was made stable.

43. The Applicant avers that the Respondent has no entitlement under the Act to withhold her pitch fee and asks the Tribunal to determine the level of the arrears and that the arrears are payable.

44. The Tribunal was also provided with a copy of the report by Mr Gordon Colbourne MRICS ACABE of Eddisons prepared on 12th December 2022 for the Applicant as an expert opinion on whether the damage or deterioration of the Home is likely to have been caused by any subsidence of the base on which the Home sits. The site inspection had taken place on 23rd September 2022 jointly with Mr David Vestey of Croft Surveyors. Mr Vestey was to comment on the condition of the Home. Mr Colbourne had inspected the former block wall when the wall was distorted and leaning outward from the site in a northerly direction, prior to its replacement, which Mr Colbourne says was done in 2019.

45. Mr Colbourne's report includes several conclusions including that the land under the Home has subsided or slipped because of failure of the concrete block wall, but further problems are unlikely as a result of the later remedial work of construction of the steel post and timber retaining wall.

46. The Respondent states that since 2020 she has not agreed to any increases in pitch fee. She included several supporting documents including correspondence between solicitors acting for the parties and extracts of surveyor reports.

47. The Applicant's Supplemental Response is dated 18th March 2024 and relies on a conclusion from Mr Colbourne that there has been no further ground movement since the retaining wall was replaced in 2021. The Applicant states that Contractors inspected the property on 24th January 2024 with a view to establishing a schedule of works to repair the plot and base, but this would necessitate moving the Home itself which, due to its condition, is now regarded as immoveable.

48. The Applicant does not consider that the damage to the Home has been caused by defects with the plot or base and that the defects are due "at least in part, by overloading of the floor joist and chassis".

49. The Applicant does not admit the position that the Respondent has not agreed any increases in her pitch fee since 2020 and relies on a letter from the Respondent dated 12th January 2020 in which she said that she would be unilaterally withholding her pitch fee payments pending resolution of the subsidence dispute. That letter refers to the subsidence affecting the

property, states that the Applicant has been provided with photographs and that the Applicant has not responded to the concerns raised.

50. The Applicant provided a list of the RPI percentage changes released on 20th December 2023 [Page 99] which detailed the Indices between January 2022 and November 2023.

51. The Applicant also provided a copy of a letter to the Respondent dated 24th February 2023 which proposed an increase in the pitch fee from £183.78 to a new figure of £208.40. The increase would be £24.62 per month.

52. A Statement of Arrears was also provided [Page 109] which calculated the monthly fee from January 2020 to February 2023 at only £164.51 per month (i.e. with no increases), with an additional £24.62 per month from March 2023.

53. The Applicant avers that the Respondent does not have the right to withhold payment of her pitch fee and asks the Tribunal, under its power to decide any other question or matter, to determine that the Respondent must pay her pitch fee arrears and for the Tribunal to determine the level of those arrears.

54. The statement of arrears sent by the Applicant with the case management application dated 2nd September 2024 reflected annual RPI increases in the pitch fee from 16th December 2020 onwards.

The Inspection

55. At 10.00am on 5th September 2024 the Tribunal inspected the outside of the property with the Respondent, Mr B Turner from the Applicant and its legal representatives Mr J Clement and Ms C Barnes

56. The Park site is situated on the western edge of the village of Bradenstoke. The Park appeared to the Tribunal to be generally well maintained. The site slopes downwards from south to north.

57. The Home adjoins the north boundary of the site with open views to the north across agricultural land. On the date of the inspection the plot itself was completely overgrown so no meaningful inspection of the plot itself was possible.

58. With permission from the respective owners the Tribunal inspected the rear of the property from the garden of the two adjoining properties to either side of the Home.

59. The boundary to the field at the rear comprises the boundary of the Home and of the Park. The boundary is formed by a retaining structure of 'H' section steel posts set in concrete with 100mm thick timber baulks slotted between the posts.

60. The Tribunal were informed that there is a membrane protecting the timbers from rot and weep holes at the base of the retaining structure.

61. The Home is effectively at the bottom of a sloping site with a marked drop in levels of several feet from its garden onto the agricultural land at the rear. The plot is retained by the structure described above.

62. Mr Raymond Gilbert of Plot 35, to the east side of the Home, allowed the Tribunal access to view the boundary from his garden. He informed the Tribunal that he had moved into his home in 2022 and believed that there was still some landslip occurring to his garden, although there was no damage to his home.

The relevant Law and the Tribunal's jurisdiction

63. 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.

64. 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.

65. 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.

66. 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.

67. 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.

68. 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."

69. 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.

70. 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 Pitch 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 Pitch Fee currently payable at the time of determining the level of a new Pitch Fee.

71. 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.

72. 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 .....
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> (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....."

73. 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-
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> (a) the latest index, and

> (b) index published for the month which was 12 months before that to which the latest index relates."

74. 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.

75. 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.
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> 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."

76. 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).

77. 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."

78. 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"

79. 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…..
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> 32. …… If there are no such improvements the presumption remains a presumption rather than an entitlement or an inevitability."

80. 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.

81. 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."

82. 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.

83. 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."

84. 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."

85. 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.
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> 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."

86. 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."

87. 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."

88. 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."

89. 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.

90. 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.
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> (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.
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> (3) No weight may be given in any case to the factors identified in paragraphs 18(1A) and 19.
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> (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.
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> (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.
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> (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."

91. 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".

92. 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."

93. The Tribunal also notes the decision of the Upper Tribunal in *Wickland (Holdings) Limited v Amelia Esterhuyse* [2023] UKUT 147 (LC) UTLC Case Number: LC-2022-617. The circumstances of that case are inevitably not exactly the same as this but there are considerable similarities.

94. In this case it was agreed that shortly after Ms Esterhuyse took occupation of her mobile home, she became aware of cracks to the hardstanding beneath her home. The base was repaired by the park owner. Ms Esterhuyse refused to agree the increase as she considered that her home was still moving and shifting and not levelled which caused ongoing damage. The local authority agreed with her and a Notice was served requiring the park owner to employ a fully qualified structural engineer to inspect the hardstanding thoroughly and carry out works to guarantee structural integrity of the hardstanding.

95. When the pitch fee review was served the appellant had not carried out the work and Ms Esterhuyse was going to have to move out of her mobile home as the home would need to be moved for the works to be completed.

96. The Eastern Region of this Tribunal was required to decide whether a change in the pitch fee was reasonable and, if so, it must determine the new pitch fee. The Tribunal needed to decide whether it would be unreasonable for the pitch fee to be increased on the basis of an increase in the RPI.

97. The Tribunal considered that the factors which might replace the presumption are not limited to those set out in paragraph 18(1) of the Act but may include other factors.

> "By definition, this must be a factor to which considerable weight attaches…. It is not possible to be prescriptive."

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

98. The FTT decided that the presumption on an increase in RPI was displaced by the Applicants failure to carry out the necessary repairs and by the distress and worry caused to Ms Esterhuyse.

99. The decision was appealed to the Upper Tribunal. The appeal failed. The Tribunal had applied the correct test and had correctly applied it. The position with regard to weighty factors and the rebuttal of the presumption was set out.

100. The Tribunal is aware that there have been later decisions of the Upper Tribunal relating to paragraph 18 and the question of whether the RPI presumption has arisen and about asserted deterioration in the condition of the given site and that the Upper Tribunal has made a number of observations and set out very useful guidelines and guidance, repeating the observation made in *Britanniacres*t that the Act itself gives little.

101. However, the Tribunal does not consider that they could add anything to its decision in this particular case on the basis that they to not add anything significant in relation to consideration of weighty factors which may displace a presumption of a rise by RPI which has arisen.

102. 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.

103. 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.

104. 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.

105. The Applicant's representative referred to some of the above case authorities. However, they 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.

106. The Tribunal has a rather different jurisdiction under section 4 of the Act as follows:

"(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.

107. That provision is very sweeping, although it does contain the two elements that there has to be a question arising and there have to be proceedings brought.

108. There have again been various judgments of the Upper Tribunal about particular questions which have been asked. The Tribunal is not aware of any which relate to a case where the question asked of the Tribunal being the amount of any arrears of pitch fee owed by the occupier to the site owner.

The Hearing

109. The Application was heard on 5th September 2024 at Swindon Magistrates Court. Mr John Clement appeared for the Applicant and the Respondent conducted her own case.

110. This decision includes a precis of the hearing only 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.

111. The Tribunal had to first decide whether it would accept and include the two documents submitted by the Applicant with a case management application on 3rd September 2024.

112. The documents comprised a copy of the site licence and an updated statement of arrears of the Pitch Fee. The original Directions had specified that a copy of the site licence was to be included in the papers. The Tribunal considered that this was an essential document and could not reasonably be considered as late evidence. Neither party objected to this being included.

113. The statement of arrears is an updated version of the document within the original bundle and would be a necessary document for the Tribunal, should it consider arrears, and to decide what the amount of those arrears would be. Accordingly, the Tribunal considered that the Respondent would not be prejudiced by its inclusion, although that did not involve any specific determination as to whether the document would prove to be relevant.

114. Mr Clement recited the case for the Applicant that the Pitch Fee would increase from £183.78 to £208.40 per month from 1st April 2023 and stated that, whilst the Respondent had notified the Applicant that she would be

withholding her Pitch Fee she had not challenged the increase in the fee itself from 1st April 2022.

115. The Respondent asserted that she had written to say that she did not agree the fee from 1st April 2022. She said that she had been paying the amount of the Pitch Fee into a separate bank account and had copies of letters written to the Applicant to say that she did not agree the fee.

116. The Respondent had not provided copies of those letters. The Applicant had not provided any written evidence relating to previous increases demonstrating that they had been agreed and in the context of no payment having been made by the Respondent.

117. Mr Clement suggested that in the absence of payment having been made, but notice given that payment was being withheld, that should itself be regarded as tacit acceptance of the fee.

118. Mr Clement referred to the law relevant to Pitch Fee increases and suggested that in this context there is a presumption that the fee will not normally increase more than the RPI and that if the Tribunal is satisfied with the process relating to the proposed increase, then it is for the Respondent to persuade the Tribunal not to increase the fee in line with RPI.

119. Mr Clement stated that the Applicant acknowledges that there was ground movement in or around 2020 relating to the retaining wall collapse, that repairs were carried out in 2021 which included a newly constructed retaining wall, and there is no evidence of recent movement.

120. It was acknowledged that the problems with the base remain, and Mr Turner said that the Applicant accepts responsibility for providing a suitable base, but a substantial repair or construction of a new base cannot be achieved without removing the Home which is now in an unmoveable condition.

121. Mr Turner stated that the contractor who had been asked to look at the Home had refused to provide a quote for the work because the Home is now regarded as being unmoveable.

122. The Respondent stated that her insurers will no longer insure the property. She confirmed that she purchased the Home in 2016 and at some later time she noticed the former retaining wall leaning out over the field at the rear, she reported this at the time to workmen on the Park but no action was taken until the wall collapsed.

123. The Respondent said that the view over the open land to the rear was important to her, that the rear garden looked lovely when the wall was replaced, but that the land has settled further and continues to settle or subside.

124. Since buying the Home she has carried out various improvements including refitting the Kitchen and replacing internal doors and that she originally withheld payment of the Pitch Fee to get the attention of the Applicant but has been putting aside £164.51 per month since then which she considers to be the last agreed Pitch Fee.

125. Mr Clement questioned whether the Respondent had commissioned a survey of the property prior to her purchase. She said that she did have a survey but only received a verbal report. There was no mention of ground conditions at the time. Mr Clement suggested that evidence of propping the Home in the past suggests that there may have been movement in the structure of the Home not related to subsidence or settlement of the plot.

126. Mr Clement Mr Clement referred to a case which he considered to be a precedent *Charles Simpson Organisation Ltd. v Martin Redshaw & Another* [2010] 2514 (Ch) 28.

127. An extract from the FTT determination by Judge Jonathan Dobson is here

128. > 28. It is perhaps convenient to pause here for a moment to refer to the judgment of Kitchen, J. in Charles Simpson Organisation Ltd. v Martin Redshaw & Another [2010] 2514 (Ch). That was an application for permission to appeal a decision on pitch fees which was refused. One of the issues raised was how the RPI is to be used. The following words from the judgment of the court below were quoted in paragraph 19 with approval:- "....the benchmark for a rise or fall in the pitch fee is the increase/decrease in the RPI since the last (previous) review date. This is a clearly identifiable index whatever may be the factors that are used to arrive at the RPI It is...clear that paragraph 20 treats this index as the prescriptive commencement point for the calculation of the new pitch fee"

129. Mr Clement asserted that the Respondent had no right to withhold payment of her Pitch Fee and asked the Tribunal to determine that she should pay the fee and arrears and to determine what the appropriate amounts are.

130. The Respondent suggested that arrears were not an issue for this Tribunal to decide.

Consideration

131. 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 documents within the bundle and later submissions.

132. The Applicant asked at the hearing for the Tribunal to both decide a new pitch fee and also to determine the level of pitch fee and arrears, and therefore to order that the Respondent should pay those arrears.

The pitch fee

133. It was abundantly clear that the Applicant had applied in respect of the first of those two matters, namely the pitch fee. The application form seeking a determination of the pitch fee was the one completed and the Directions had quite understandably identified that as the application made.

a) The current fee

134. In order to determine a new pitch fee from 1st April 2023 the Tribunal must first establish what the latest pitch fee had been prior to that date of the notice.

135. The Respondent confirms that she has not paid her Pitch Fee since January 2020 but agrees that the Fee at that time was £164.51 per month.

136. The Respondent maintains that the pitch fee has been in dispute since that time and that she has not agreed to any increases above the figure of £164.51 per month.

137. The arrears sheet provided by the Applicant at [Page 109] shows the monthly amount due at 7th January 2020 to be £164.51 per month. On 12th January 2020 the Respondent informed the Tribunal that she has been depositing money for the Pitch Fee into a separate account at the same figure of £164.51 per month. The Parties agree and the Tribunal concludes that this was the Pitch Fee at that date.

138. The Appellant debits the same amount of £164.51 to the arrears statement each month through to the 7th April 2023 when an additional £24.62 is added each month. This amounts to a total payment of £189.13 per month which does not correlate to their statement of arrears. £24.62 is the suggested uplift for April 2023 on a fee for the previous year of £183.78.

139. The second statement of arrears which accompanied the case management application on 3rd September 2024 shows a fee of £164.51 per month from 3rd January 2020 to 6th March 2020 increasing to £168.13 per month, from 3rd April 2020 to 5th March 2021, increasing to £170.48 per month from 2nd April 2021 to 4th March 2022, increasing to £183.78 per month, from 3rd April 2022 to 3rd March 2023 and from 7th April 2023 to 8th August 2024 increasing to £208.40 per month as per the pitch fee review notice. In short the Applicant seeks to apply RPI increases from 2020 onwards. This is clearly at odds with the first statement of arrears at [Page 109].

140. A new pitch fee can only take effect if after service of the appropriate notice the owner of the Park Home agrees or by a determination of a Tribunal. The Tribunal unhesitatingly rejects the notion advanced by the Applicant that there can be a "tacit acceptance", although it finds nothing which could properly regarded as such tacit acceptance even if that had been relevant.

141. The Applicant did not provide the Tribunal with any previous notices of increase nor any decisions from a Tribunal that a pitch fee had been determined. The Respondent says she has objected to every notice she has received, although she had not provided any copies of letters or emails that she sent in this regard. She had indicated in correspondence that she did not consider that this Tribunal would be considering arrears. In support of this assertion, she states that has been paying the original amount of £164.51 into a separate account since January 2020.

142. Within the Pitch Fee review form dated 24th February 2022 the Applicant states that the current fee at that date is £183.78. The Applicant did not demonstrate that there had been any agreement to increases in the Pitch Fee between 6th March 2020 and the date of the Tribunal hearing.

143. In the absence of any evidence that any increase in the pitch fee had been agreed or that there had been any application to the Tribunal for a determination and that determination was made in the amount sought, the Tribunal determines that the Pitch Fee of £164.51 per month applies from 7th January 2020 until 31st March 2023. The pitch fee at the time of the Notice on which this application is based was £164.51.

b) The new pitch fee

144. The Respondents' right to station her Home on the pitch is governed by the terms of her Written Agreement with the Applicant and the provisions of the 1983 Act.

145. The Notice and prescribed forms proposing the new Pitch Fee were served by post more than 28 days prior to the review date. The Tribunal noted a typographical error of the year within the date within the notice itself but the letter to which the notice was attached is correctly dated. The Tribunal determines that this typographical error does not invalidate the notice.

146. There is a rather different question as to whether the Notice is rendered invalid for giving a current pitch fee which is entirely different to the actual pitch fee and a proposed pitch fee which is entirely different to the sum which a pitch fee increased by RPI (as sought) from the actual pitch fee at the time could be.

147. The Tribunal is aware that there have been judgments of the Upper Tribunal about potential failings in a Review Notice or the accompanying form in both 2023 and 2024 and involving other parks in this Region. However, the Tribunal neither sought or received any submissions about the form or content of the Notice and Form or about any effect of that. There is also older authority to the effect that a Notice was not valid because it contained incorrect computations of the actual amount of the increase proposed and of the amount that the occupier would pay.

148. The simple reason for that is that during the hearing the Tribunal had not yet determined what the current pitch fee was and hence any effect of that had not been identified by the Tribunal or any other participant.

149. In other circumstances, the Tribunal would most likely have sought written submissions as to whether the Notice and Form could be valid where the wrong pitch fee and the wrong proposed increase and amount which would be payable were set out. However, the Tribunal is mindful that would add to cost and delay.

150. In light of the determinations made below, the answer to the question would be academic. As identified in the headline to this Decision, the Tribunal has determined that the pitch fee should not change. If the Notice was invalid, the effect would be that the fee would not change. If it is valid then in light of the determinations, it does not change anyway.

151. Hence, the Tribunal sees no merit in seeking representations about a matter which does not alter the end result. Such representations are not therefore sought.

152. The Tribunal turns to why it determined that the pitch fee should not change in any event.

153. Parks are living developing areas that do not stay fixed in time, but the Tribunal found the site to be in good condition and found no wider deterioration or decline in condition or amenity which would preclude an increase in the Pitch Fee in line with RPI. Nor is any suggested by the Respondent.

154. The pertinent question in this case is whether the impact on the Respondent's pitch of the various matters identified above and not in dispute between the parties, leaving aside anything in dispute for now, amount to a weighty factor which rebuts the presumption of a rise in line with RPI. The next question which arises if the presumption is rebutted is the level of fee determined.

155. The Tribunal has been made aware of other proceedings between the parties and the value of those. The Tribunal is inclined to refrain from interfering with the outcome of those proceedings insofar as it can do so. The Tribunal nevertheless has to make a determination and cannot shrink back from that where matters need to be addressed, and findings need to be made in order to make that determination.

156. However, irrespective of the original condition of the Home, it is not disputed between the parties that there has been subsidence or settlement in the base for the Home and in the garden. The Tribunal concurs that this is the case. This eventually led to a collapse of the retaining wall to the rear of the plot. The wall was replaced by steel posts with timber baulks. The posts are stated to still be vertical and are set in concrete. There is some

slight distortion in the timber baulks which are subject to pressure from the soil within the plot.

157. There would undoubtedly have been some backfilling of the soil in the garden of the plot, the amount depending on how much compaction was done at the time the wall was replaced, so there would be some settling of the soil which is quite likely to be what the Respondent has experienced since the wall was replaced.

158. There are significant elements of dispute about the specifics of the situation and effects. However, the last evidence relied on by the Applicant prior to the Notice identifies movement and a need for a "bridge" between the steps and the Home and, irrespective of ongoing movement or lack of it, demonstrates ongoing impact.

159. Further and significantly, it is agreed by the parties that the base on which the Home stands is defective, that it needs to be rebuilt and that subsidence or settlement in the past has occurred which must have acted negatively on the Home itself.

160. The Tribunal determines it to be the responsibility of the Park Owner to provide a suitable and stable base for any home on the site and that the base for the Home in this case is not suitable or stable in its present form as it is agreed by the Parties that the base needs to be rebuilt.

161. In addition, the Respondent has referred to the stress and worry this has caused her, especially as she invested considerable sums in improving the Home, and to the effects on her physical health of living in a home that is damp and cold due to the damage caused by the subsidence.

162. The Tribunal considered the fact that it must determine the pitch fee it considers reasonable but that in the normal course that is one increased from the previous fee equivalent to the increase in RPI. The Tribunal considered whether the longstanding defect of the pitch and base to the extent accepted by the Applicant was a sufficiently weighty factor to rebut the presumption that the pitch fee should increase in line with RPI or at all. The Tribunal determines that it is, carrying greater weight in this instance than the presumption.

163. The Tribunal does not consider that to the extent that there are elements of dispute between the parties about the effect on the park home itself and certain other matters, it is necessary for the Tribunal to determine those to conclude the factor to be amply weighty to rebut the presumption.

164. The presumption having been rebutted, the question to be determined is the reasonable pitch fee, with no presumption in place. The first element of that is whether the pitch fee should change at all, the over- arching consideration as identified by the Upper Tribunal is of particular significance at this point.

165. The Tribunal determines that the pitch fee should not change.

166. The Tribunal has taken account of the fact that the Applicant's costs will have increased but also the significant and ongoing effects upon the Respondent of the extent of the problems with the pitch to the extent accepted. The Tribunal has no hesitation in concluding that the weight is such that there should be no increase to the pitch fee from 1st April 2023. The Tribunal again finds it unnecessary to reach findings on the matters related to the pitch and base which remain in dispute, which the Tribunal determines would not alter its conclusion as to the level of pitch fee.

167. The Pitch fee remains at £164.51 per month.

The contended arrears

168. The Tribunal considers that it can deal briefly with the Applicant seeking a determination as to arrears and consequential order.

169. The Tribunal does not initially consider that section 4 of the Act when referring to the determination of "any question" should be interpreted as including the amount of any arrears said to be owed by a pitch occupier to a site owner.

170. However, this is another matter on which the Tribunal did not receive any submissions on the matter from either party. The Applicant appeared to perceive that the Tribunal would deal with the matter and the Respondent perhaps did not identify whether that should be challenged. The Tribunal accepts that it not in the context of the other issues in the case consider fully in the hearing whether determination of any alleged arrears was a task it could undertake. The Tribunal considers that it would need to receive submissions on this element if the Tribunal were able to consider the question.

171. In the event, that the Tribunal considers that it is not seized of the matter and does not have the jurisdiction to determine the question.

172. The Applicant did not make an application for a determination. There was no relevant application form completed. Even assuming any ability to include such an application with a pitch fee determination application, about which the Tribunal does not seek to make any determination given it is unnecessary to do so, there was no such application made. The pitch fee application makes no mention of arrears or the Applicant seeking a determination about them.

173. The Applicant has sought at a later point to add in the extra matter but had not made any application to do so and had not been given permission to do so. No application for permission was made.

174. Section 4 of the Act is clear that proceedings must be brought, which in practice amounts to an application being made. That did not happen.

175. The Tribunal therefore determines that it has no jurisdiction in this case to make a determination about any arrears. Any matters which might be relevant if the Tribunal could have jurisdiction do not arise in this instance and so no more need be said about them. For the avoidance of doubt, no determination is therefore made.

Fees

176. The Tribunal did not hear anything specifically related to the fees paid by the Applicant. However, those fees are modest, reflecting the limited sums ordinarily involved in pitch fee increase cases, and so the Tribunal considers that it can address the point in short order.

177. Whilst the outcome of the application does not provide the complete answer, it is obvious that the Applicant failed. It did so where there remain problems with the pitch and notably where the Applicant sought to assert an existing pitch fee which was significantly wrong. Any longer discussion would not add much to the weight to be given to those factors.

178. The Tribunal determines that the fees must be borne by the Applicant.

Decision

179. Accordingly, the Tribunal determines that the Pitch Fee for the Home from 1st April 2023 is £164.51.

180. The Tribunal also determines that the Tribunal Fee paid by the Applicant will not be recoverable.

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.