



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

<b>Case reference</b>	<b>Property</b>
CHI/ooHE/PHI/2023/0665	11 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0666	15 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0667	21 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0668	23 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0669	25 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0670	34 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0671	42 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0672	43 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0673	48 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0674	61 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0675	62 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0676	63 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0677	65 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0678	69 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0679	71 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0680	74 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0681	77 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0682	79 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0683	83 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0685	14 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0686	29 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0687	32 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0688	45 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0689	49a St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0690	55 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0691	64 St Dominic Park, PL17 8BN
CHI/ooHE/PHI/2023/0692	78 St Dominic Park, PL17 8BN

**Property** : St Dominic Park, Harrowbarrow,  
Callington, Cornwall, PL17 8BN

**Applicant** : Wyldcrest Parks (Management) Ltd

**Representative** : David Sunderland

**Respondents** : The occupiers of the properties listed above

**Representative** : Mr A Turner

**Type of Application** : Review of Pitch Fee: Mobile Homes Act  
1983 (as amended)

**Tribunal Member** : Regional Judge Whitney  
Regional Surveyor Coupe FRICS

**Date of Decision** : 19 December 2024

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**Decision**

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## Background

1. The Applicant is the site owner. Each of the Respondent's is the occupier of a pitch at the site subject to a pitch fee agreement. Applications have been made for the determination of the pitch fee increases from 1 September 2023.
2. The Applicant says they have served a Pitch Fee Notice on each of the Respondents. The applications were received on 2 October 2023 and 30 November 2023.
3. Directions were first issued on 24<sup>th</sup> May 2024. Subsequent applications and the like were made by both parties resulting in decisions being issued. The matter was listed for a hearing at Bodmin Magistrates Court on 5<sup>th</sup> September 2024 after an inspection of the site.
4. The directions were substantially complied with and the Tribunal had a bundle of 848 pdf pages. References in [ ] are to pdf pages within that bundle.

## The Law

5. The relevant law is set out in the Mobile Homes Act 1983 (as amended) ("the Act").
6. 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.*
7. 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)*

8. 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.
9. 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 (now CPI).
10. 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.”*
11. 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.”*
12. Paragraph 17(5) provides that *“An application under subparagraph (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].*
13. 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.

## **Inspection**

14. Immediately prior to the hearing the Tribunal inspected the site. The Tribunal parked in the far bottom corner of the site, furthest from the entrance parking outside Pitch 78. It was dry but overcast and there had been recent rainfall.
15. Various residents were present including Mr Turner. The Tribunal reminded all the purpose was simply for the Tribunal to view the site and it could not and would not hear any representations or evidence from any party.
16. The Tribunal then walked around the site using the roadway proceeding clockwise around the same.
17. We noted that the grassed areas had been freshly mown. The Park itself was set in a wooded valley reached via narrow country lanes typical of this area of Cornwall.
18. Generally the homes seemed well established. A small number of new homes were seen on the right hand side just before the meadow area as we headed towards the main entrance.
19. As we walked up the hill towards the main entrance on the right hand side was the sewage works. A smell was evident as we came towards the sewage plant. The roadway had some pot holing.
20. At the entrance to the site there was signage and a plan. Immediately after the entrance was what had been described as the "community hall". This was a derelict building in poor repair. At the rear were stacked up large numbers of old fire extinguishers. There was at the front of the building a trailer full of rubbish and lights were hanging off the building.

21. About half way along the road from the entrance was a further noticeboard displaying the site licence and other statutory information. There was a defibrillator.
22. Pitch 31 was pointed out to the Tribunal being a pitch with a home in a very poor state of repair which belonged to the Applicant.

## **Hearing**

23. The hearing took place at Bodmin Magistrates Court. Mr Turner appeared for the Respondents. A large number of Respondent's and other observers attended.
24. There was no attendance by any person on behalf of the Applicant. Mr Sunderland had previously applied to appear remotely at the hearing but this application was refused. The panel noted that on two occasions the Tribunal had written to the Applicant reminding them the hearing was taking place and they may wish to attend.
25. The Tribunal was satisfied that the Applicant was aware the hearing was to take place and chose not to attend. We were satisfied it was proportionate and in the interests of justice to proceed.
26. Below we set out a precis only of what took place at the hearing. The hearing itself was recorded.
27. Mr Turner suggested that by not attending the Applicant was treating the Tribunal and Residents with contempt. Mr Turner suggested that within this application the Applicant's had suggested they only had 6 of the 27 written agreements. He referred to a letter to the residents sent by the Applicants when they acquired the site [691] which he said indicated they had all the agreements.
28. Mr Turner suggested that works had been undertaken in recent days to ensure the site was in a tidy state for the inspection.
29. Mr Turner suggests that certain homes do not have planning consent and as a result those homes are not covered by the Mobile Homes Act. This related to pitch numbers 62, 63 and 83. Mr Turner submitted that it was not fair and just to apply a pitch fee as the terms were in his submission unenforceable. He suggested that occupiers were defrauded as they were not aware

- planning did not exist.
30. The Tribunal did remind Mr Turner he could not raise arguments not raised within his case given the Applicants were not in attendance.
  31. In respect of all homes Mr Turner suggested that they had tried to compromise with the Applicant by offering to accept a lower increase [690].
  32. Mr Turner referred to an earlier decision dated 21 April 2022 [627]. A reduction had been granted due to temporary works being undertaken in the meadow area to remove a garage block and create additional pitches. He suggested the local authority had considered enforcement action but had withdrawn the same. He suggested there was now a permanent loss of amenity which the Tribunal should consider.
  33. Mr Turner suggested the area which he referred to as the paddock which was now not mown save for a pathway was not safe for residents.
  34. In respect of the sewage works Mr Turner suggested it only works on a temporary basis and referred to a report from the Environment Agency [696] which referred to breaches and the need for maintenance to be undertaken. Mr Turner suggested that a foul stench emitted from the plant particularly in humid and hot weather.
  35. Mr Turner suggested the clubhouse and its condition amounted to a loss of amenity. He referred to the piles of fire extinguishers and that this was an ongoing loss of amenity.
  36. The Tribunal then heard from each of the Respondents who were in attendance with any additional comments in addition to the points raised by Mr Turner they wished to make:

Mr E Drew (64) He explained he had looked after the land by the stream outside his home as this was not tended by the Applicant;

Ms D Lovett (32) She referred to continually experiencing problems with the drainage to her home;

Ms J Jean (34) She referred to continually experiencing smells from the drainage to her home;

Ms S Crossley & Ms Y Edginton (71) She is concerned about her garden subsiding as the wall had not been properly backfilled [762-

786]. They suggested this makes their back garden unusable and they are worried it may affect the drainage as the sewer could collapse;

Mr and Mrs Carter (15) Agreed with what said but also concerned about lighting on site being poor.

Mr D Crawley (43) He suggested that maintenance on the site is very limited. He stated that smells are emitted from the drains in the home to which there was general agreement from all other Respondent's present in the room. He stated the sewage plant is not emptied or maintained. He stated that the trailer outside the community hall is simply topped up with rubbish and has been there for well over 12 months;

Mr D Austin (63) He suggested that there is no management and the fit and proper person never visits the site;

Ms M Jordan (65) she stated that sewage smell comes up into her home. She also raised concerns over walking on her own in the park due to the holes in the roadways;

Ms Treavy (83) She stated she had lived on the site for 3 years. She believed she had been treated badly from day 1 as her home was mis sold to her. She stated there is a continual sewage smell day and night in her home;

Ms J Jenks (21) She stated there was a lack of fire hydrants and there was no light over the defibrillator;

Mr D Mason (25) He suggested that there are issues with branches from trees on the bank above his home falling off onto homes below;

Mr Dean (79) He stated that a resident had paid for a repair to an electrical meter cupboard. He stated he believed the Applicant was too remote to manage the site;

37. All present stated they were affected by smells of sewage coming up through their drains.

38. At the end the Tribunal confirmed with all present that they had told the Tribunal everything they wished to.



## Decision

39. As set out above at the start of the hearing we considered whether it was appropriate to proceed in the absence of the Applicant or its representative. Mr Sunderland on behalf of the Applicant had indicated he would not attend. He was reminded the Tribunal may ask questions and hear submissions from the Respondent's in the emails the Tribunal had sent to him.
40. We were satisfied it was in the interests of justice to proceed with the hearing notwithstanding any absence on the part of the Applicant. We record that the Tribunal take judicial notice of the fact that Mr Sunderland attended the following day at Bodmin Magistrates to represent another site owner in a pitch fee dispute determined by a panel consisting of the same members as this decision.
41. We record that we found the site was generally in good order. The roadways whilst having some potholes were not in such poor order that we consider that to be sufficient to amount to a weighty factor which would rebut any presumption of an increase. Equally it was plain gardening works had been undertaken recently but overall the impression was of a site which was maintained. Save as set out below we were not satisfied any other matters raised by any of the Respondents displaced the presumption of an increase.
42. We deal firstly with Mr Turners arguments over homes 62, 63 and 83. We are not satisfied that we do not have jurisdiction to determine the pitch fee for each on the basis the Mobile Homes Act does not apply.
43. It is not for this Tribunal to determine if parties were mis sold their homes by the Applicant. Equally issues as to whether or not the relevant planning permissions are in place are not matters to be canvassed in this forum. We would urge those home owners to take their own legal advice as to what if any remedies may be available to them.
44. We are satisfied given each occupies under a pitch fee agreement that we have jurisdiction under the Mobile Homes Act and should determine the correct pitch fee payable.
45. We find that the notices served and relied upon by the Applicant are valid pitch fee notices which comply with the statutory requirements. There is a prima facie case that the Applicant is

entitled to the pitch fee increase sort in accordance with the CPI Index being 7.9%.

46. We accept that we must be satisfied that there is a real reduction in the amenity of the site and the facilities of the same before we should rebut the presumption of such an increase. However we are satisfied that such presumption is rebutted.
47. Whilst many matters may have been raised previously we are required to consider them in respect of this pitch fee review. We accept we must take care to ensure that the Applicant is not penalized for matters for which a reduction has already been given. That is not in our judgment to say that once there had been a reduction there can never be any further reduction. That will be a matter of fact and degree for each Tribunal considering the applications.
48. In the instance case we are satisfied that the state of the “community hall” and in particular the substantial build up of waste fire extinguishers and rubbish in the trailer to the front is a substantial reduction in the amenity of site. This is one of the first things any visitor to the site would see. In our judgement this is a weighty matter account of which we should take. We are satisfied the severely dilapidated state of this building and the accumulation of waste and rubbish amounts to a deterioration in the amenity of the site as a whole. This affects all the Respondents in a similar way.
49. Secondly we are satisfied that all the Respondents suffer from deficiencies with the sewage system leading to noxious smells in each of their homes coming from the drainage. We accept the evidence given at the hearing from the Respondents. Each agreed with the other and each Respondent was consistent in their submissions in this regard. Further we take account of the Environment Agency report and the findings and defects that noted as supported this finding of fact. We find that this is a weighty matter that can and should displace the presumption of the statutory increase.
50. We have considered what increase is appropriate. We are satisfied that some increase is justified. Doing the best we can on the basis of our inspection and findings set out in this decision we consider that a reduction of one third is appropriate being 5.29%. We have considered each Respondent but note all were represented by Mr Turner and at the hearing there was a consensus of agreement that all were affected. We stand back and consider the same but are satisfied that each and every

Respondent would be affected and apply the same reduction to each.

51. This leaves Pitch 71. The occupiers raise an additional issue relating to the subsidence of the wall in their garden. The Applicant raises no challenge to this argument in their reply. It was clearly set out by this Respondent in their submissions. We heard from these two Respondents at the hearing. We are satisfied that this is a further reduction in amenity which only affects Pitch 71. We find that this is a weighty matter and that the presumption of the statutory increase is rebutted and a further allowance should be made given the substantial defect. Such allowance is for Pitch 71 only. We determine that the increase for Pitch 71 should be limited to 2.63% taking account of our findings in this paragraph and also in paragraph 50 above.
52. A table setting out the new pitch fees as determined by us is attached to this decision.
53. Finally we have considered whether or not the Applicant is entitled to reimbursement of the fees paid to the Tribunal. Orders for recovery of the fee are a matter of discretion. We note if the parties cannot agree the pitch fee then an application is required. The Respondents did endeavor to enter into negotiations. Evidence was provided. Whilst we have found the Applicant's are entitled to some increase equally the Respondent's have rebutted the increase sought. Overall we are satisfied we should exercise our discretion and decline to order that the Respondents should reimburse the Applicant for any fees incurred.

#### 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)
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.

<u>Case reference</u>	<u>Property</u>	<u>Respondent</u>	<u>Current Fee (£)</u>	<u>New Fee (£)</u>
CHI/ooHE/PHI/2023/0665	11 St Dominic Park, PL17 8BN	Mrs Chalk	157.85	166.20
CHI/ooHE/PHI/2023/0666	15 St Dominic Park, PL17 8BN	Mr & Mrs Carter	169.65	178.62
CHI/ooHE/PHI/2023/0667	21 St Dominic Park, PL17 8BN	Mr & Mrs Jenks	157.85	166.20
CHI/ooHE/PHI/2023/0668	23 St Dominic Park, PL17 8BN	Mr & Mrs Yorke	157.85	166.20
CHI/ooHE/PHI/2023/0669	25 St Dominic Park, PL17 8BN	Mr & Mrs Mason	174.78	184.03
CHI/ooHE/PHI/2023/0670	34 St Dominic Park, PL17 8BN	Mr & Mrs Gee	154.89	163.08
CHI/ooHE/PHI/2023/0671	42 St Dominic Park, PL17 8BN	Mr & Mrs Martin	157.85	166.20
CHI/ooHE/PHI/2023/0672	43 St Dominic Park, PL17 8BN	Mr & Mrs Cordier	154.89	163.08
CHI/ooHE/PHI/2023/0673	48 St Dominic Park, PL17 8BN	Mr & Mrs Marshall	157.85	166.20
CHI/ooHE/PHI/2023/0674	61 St Dominic Park, PL17 8BN	Mrs Lilian Peggy Hanson	154.89	163.08
CHI/ooHE/PHI/2023/0675	62 St Dominic Park, PL17 8BN	Mr & Mrs Wasling	211.41	222.59
CHI/ooHE/PHI/2023/0676	63 St Dominic Park, PL17 8BN	Mr & Mrs Austin	157.85	166.20
CHI/ooHE/PHI/2023/0677	65 St Dominic Park, PL17 8BN	Mrs M Jordan	157.85	166.20
CHI/ooHE/PHI/2023/0678	69 St Dominic Park, PL17 8BN	Mr & Mrs Casey	211.41	222.59
CHI/ooHE/PHI/2023/0679	71 St Dominic Park, PL17 8BN	Mrs Crossley & Miss Edginton	154.89	158.76
CHI/ooHE/PHI/2023/0680	74 St Dominic Park, PL17 8BN	Mr & Mrs Ash	155.61	163.84
CHI/ooHE/PHI/2023/0681	77 St Dominic Park, PL17 8BN	Mr & Mrs Lund	157.60	165.94
CHI/ooHE/PHI/2023/0682	79 St Dominic Park, PL17 8BN	Mr Christopher Dean	174.78	184.03
CHI/ooHE/PHI/2023/0683	83 St Dominic Park, PL17 8BN	Mr & Mrs Creevy	211.41	222.59
CHI/ooHE/PHI/2023/0685	14 St Dominic Park, PL17 8BN	Mr & Mrs Read	157.85	166.20
CHI/ooHE/PHI/2023/0686	29 St Dominic Park, PL17 8BN	Mr & Mrs Hallett	154.89	163.08
CHI/ooHE/PHI/2023/0687	32 St Dominic Park, PL17 8BN	Mr & Mrs Lovett	157.85	166.20
CHI/ooHE/PHI/2023/0688	45 St Dominic Park, PL17 8BN	Mr & Mrs Trevail	154.89	163.08
CHI/ooHE/PHI/2023/0689	49a St Dominic Park, PL17 8BN	Mr Turner & Mr Dexter	154.89	163.08
CHI/ooHE/PHI/2023/0690	55 St Dominic Park, PL17 8BN	Mrs P Watts	174.78	184.03
CHI/ooHE/PHI/2023/0691	64 St Dominic Park, PL17 8BN	Mr & Mrs Drew	157.85	166.20
CHI/ooHE/PHI/2023/0692	78 St Dominic Park, PL17 8BN	Miss Lyon	154.89	163.08