FIRST TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**CAM/38UB/PHI/2024/0608**
HMCTS	**:**	**Inspection & Hearing**
Site	**:**	**Duvall Park Homes, Heyford leys, Upper Heyford OX25 5LX**
Park Home Address	**:**	**89 Duvall Park Homes, Heyford leys, Upper Heyford OX25 5LX**
Applicant	**:**	**Mr Liberty Durant**
Representative	**:**	**Tozers LLP**
Respondent	**:**	**Mr William Dickson and Mrs Jeanette Dickson**
Type of application	**:**	**Application under Mobile Homes Act 1983 to determine a pitch fee**
Tribunal	**:**	**Judge JR Morris** **Mrs S Redmond BSc (Econ), MRICS**

Date of Application	**:**	**27 June 2024**
Date of Directions	**:**	**7 January 2025**
Date of Hearing	**:**	**20 May 2025**
Date of Further Directions	**:**	**29 May 2025**
Date of Decision	**:**	**18 July 2025**

DECISION

Decision

1. The Tribunal determines the new pitch fee for 89 Duvall Park Homes as £254.93 per month to take effect on the Review Date on 1 April 2024.

2. The Tribunal directs that the overpayment of the pitch fee for the period 1 April 2023 and 31 March 2024 of £401.88 by the Respondents shall be paid by the Applicant to the Respondent within 48 days after the Tribunal sends this Decision pursuant to section 231A(e) of Housing Act 2004.

Reasons

Introduction

3. The Applicant, who is the Site Owner applied on 27 June 2024 for a determination of the pitch fee payable by the Respondents who are the owners of a Home that is sited on pitch 89 Duvall Park which they Occupy.

The Law

4. The relevant law is:
   a) Paragraph 25A (1) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983, The Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations 2013, and The Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations SI 2023/620.
   b) Paragraphs 16 to 20 of the Implied Terms of the Written Statement of in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983 as set out in Appendix 2.
   c) Section 231A of the Housing Act 2004 as set out in Appendix 2.

Directions

5. Directions were issued on 7 January 2025. In compliance with which the Applicant provided to the Tribunal and the Respondent copies of:
   - The Application Form;
   - The Directions with Reply Form annexed;
   - The Notice of Proposed Pitch Fee and Pitch Fee Review Form dated 29 February 2024 sent to the Respondent;
   - Written Statement under the Mobile Homes Act 1983 (as amended);
   - A statement of case supported by a Witness Statement and Invoices;
   - CPI data; and
   - Correspondence.

6. The Directions required the Respondent to send to the Applicant and the Tribunal by 25 February 2025 a statement of case explaining why agreement cannot be reached on the proposed increase of the pitch fee. If reliance is placed on any of the matters in paragraph 18(1) of Chapter 2 of Part 1, to say why it would be unreasonable to increase the pitch fee e.g. if the condition of the Site has deteriorated or there has been a decrease in amenities or reduction in services.

7. The Tribunal generally uses the terminology of the legislation and Written Agreement and so refers to the residents or park home owners as "Occupiers," as they own their mobile home but occupy the pitch, and the park as the "Site."

8. The Respondent provided a Statement of Case, which was responded to by the Applicant.

Notice of Increase and Pitch Fee Review Form

9. The Applicant issued a Notice of Increase in the form of a letter dated 29 February 2024 setting out the current fee and the new proposed fee. In addition the Applicant issued a Pitch Fee Review Form in prescribed form under paragraph 25A (1) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 and The Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations SI 2023/620, dated 29 February 2024, which proposed a new pitch fee for pitch 89 occupied by the Respondents of £294.76 per month to take effect on the Review Date on 1 April 2024 to replace the current pitch fee of £283.42 per month which was reviewed on 1 April 2023, giving an increase of £11.34 calculated from an CPI increase of 4%.

10. The Notice stated that in accordance with paragraph 20(A1) of Chapter 2 of Part 1 of Schedule 1 of the Mobile Homes Act 1983 the calculation was based upon the percentage increase in the Consumer Price Index (CPI) over 12 months by reference to the CPI published for January 2024 which was 4%. (a copy of the CPI table was provided).

Site Inspection

11. The Tribunal inspected the Site accompanied by the Respondents. The Duvall Park development currently comprises two Sites, the Old and the New. The entrance to the Old Site is off Heyford Leys at the north end of the development. This has two large car parks at the entrance one of which has 40 spaces and can be used by Occupiers from the New Site for their additional vehicles, this car park is referred to as the "top car park". There are two site roads. The upper site road traverses the upper part of the Old Site nearest Camp Road. There are about 30 park home pitches in this upper part of the Old Site. The lower site road traverses the upper part and passes over a stream to the east and then turns south extending for some distance. There are three large car parks off the lower road. There are about 37 park home pitches in this lower eastern part of the Old Site.

12. The New Site is off a farm road which is a continuation of Heyford Leys which leads to a sewage treatment works. This is a private road owned by the farmer over which the Applicant and the sewage works have an easement. The Applicant has obtained permission from the farmer to tarmacadam the road as far as the entrance to the New Site. The New Site has two access roads one that leads from the entrance to the other road which extends north and south. The New Site is parallel and to the west of the lower part of the Old Site but separated from it by a stream which runs north to south. The New Site has about 24 park pitches.

13. The subject of this Application is the New Site which is referred hereafter just as "the Site."

14. The entrance to the Site has three lights to the farm road and a mirror opposite the entrance to give a view along the farm track. The tarmacadam only extends to the entrance of the Site just before which there is a speed bump. The Site has a natural fall from the farm road and entrance towards the stream and there is a natural fall from the north end of the Site to the south end. At the southern end of the Site Road there is a large area of grass beyond which, at the most southern end of the Site is a gated area referred to as the "recreation area" which has a hedge boundary. Within

the recreation area there is a pond next to the stream although not directly fed by it. Also within the recreation area is an enclosure for the septic tanks to which the Site sewage flows. The tanks have vents and at the inspection the Tribunal was aware that they emitted a faint odour.

15. The Site pitches all have car parking some with space for one car others for two. There is a visitor car park, referred to as the visitors' car park," at the entrance although one Occupier has erected a notice claiming a space. This car park was full. There were a further 5 parking spaces at the southern end of the Site Road towards the recreation area. The visitors to the Site are permitted to use the large car park of the Old Site.

16. Apart from the grassed area at the southern end of the Site Road and the recreation area there were no common grassed areas. The pitches included all the land along the Site Road, the maintenance of which are the responsibility of the Occupiers under the Written Agreement.

17. The Tribunal inspected the Respondents' pitch which backs onto the stream which was flowing gently on the day of the inspection. The stream banks are steep and quite deep. The Respondents' pitch has a block paved drive to the front and a hard landscaped garden to the rear. The Respondents identified an area where a tree had grown and which they had removed because it had lent against the fence (photographs provided).

18. On the day of the inspection the Tribunal found the Site to be in good condition and well maintained.

Hearing

19. Following the Inspection a hearing was held which was attended by the Applicant and the Respondents. Other Respondents were present who also had objected to the increase in pitch fee. Each case was dealt with separately. Both parties had provided a written statement of case which was confirmed and developed in the course of the hearing.

Issue 1 – Non-service of the Pitch Fee Review Form for the Previous Year

20. The Respondents raised a preliminary issue in their written statement of case, and orally at the hearing, that they had not received the Pitch Fee Review Form for previous years, only the Notice of Proposed Pitch Fee. Other Respondents who were present who had objected to the increase in pitch fee raised the same point.

21. At the hearing the Tribunal was under the impression that the Respondents were questioning the current Pitch Fee Review Form and its service but, having reviewed the written and oral statements made, this was not correct. The Tribunal found that the Respondents were in fact submitting that, since 26 July 2013 when the Mobile Homes (Pitch Fees) (Prescribed Form) (England) Regulations 2013 made the prescribed form mandatory, they had not received the prescribed form in respect of previous reviews, and therefore those reviews were invalid. They submitted that, therefore the review in issue was also invalid as the "current pitch fee" upon which the "proposed pitch fee" was based was incorrect.

22. Neither the Applicant nor the Respondents were legally represented and could not provide evidence or make submissions regarding the validity of the previous reviews at the hearing. The Tribunal considered that it was a legal issue that having been raised should be argued by the Respondents and to which the Applicant should have the opportunity to respond with the opportunity of taking advice, as it effects the review which is the subject of the Application.

23. The Tribunal considered that the issue could be dealt with by written representations alone and made Directions accordingly. The parties responded to the Directions as follows.

Respondents' Case

24. A copy of the Respondents' Written Agreement was provided which stated that the Agreement started on 5 August 2022 with the fee of £249.93 per month payable from 8 August 2022. The Respondents later received a Notice of Increase from the Site Owner in the form of a letter dated 1 March 2023 saying:

RPI Increase 1st April 2023

The Ground Rent increase comes into effect on 1st April 2023. This is a Retail Price Index increase and has been calculated on figures provided to us by the Office for National Statistics in London.

The latest available RPI figure (taking into account the 28 day notice period that we are required by Law to give) is 13.4% and this is the figure we have used in calculating your new Ground Rent payment for 2023.

We have under noted your new monthly payment and would, with respect, ask you to notify your Bank of this in time for payment due on 1st April. Could you please ensure that your Plot number is added as a reference.

Yours Sincerely
DUVALL PARK HOMES

Undernote:

Ground Rent 2022	*£249.93*
RPI Increase @ 13.4%	*£33.49*
Ground Rent 2023	*£283.42*

25. The Respondents said that no Pitch Fee Review Form was either referred to in the letter nor was one enclosed with the Notice. The Respondents said that, had they received the mandatory Pitch Review Form they would have been aware of the appropriate process to appeal the increase for that year.

26. In contrast the Notice of Increase letter dated 29 February 2024 stated:

This letter is notice to you that we propose to review your pitch fee from £283.42 per month. The new pitch fee we are proposing is £294.76per month as detailed in the enclosed form. Following the introduction of the Mobile Homes (Pitch Fees) Act

2023, the proposed pitch fee review for 2024 has considered the consumer price index, rather than the retail price index which has been used previously.

This was the only review letter that referred to the Pitch Fee Review Form and the only year a Pitch Fee Review Form was received.

27. The Respondents submitted that the Pitch Fee Review of 1 April 2023 was invalid and therefore their current pitch fee should be £249.93.

28. At the hearing the Respondents confirmed that they had received the Notice of increase in the form of a letter and the Pitch Fee Review Form dated 29 February 2024 in respect of the Pitch Fee review of 1 April 2024. However, they submitted that because the current pitch fee is incorrect in the documentation their pitch fee should continue to be £249.93.

29. Even if the current pitch fee were corrected the Respondents still dispute the amount of the increase for the 1 April 2024 Pitch Fee Review and their case is set out below.

Applicant's Case

30. The Applicant said he had owned Duvall Park Homes for over 20 years and on 1 April every year he had implemented a pitch fee increase. Over this time, he said he had never had any problems reported to him in relation to the rent increases and there are now 98 Homes on the Site in total.

31. He said that he understood that four Occupiers are refusing to pay the pitch fee increase, but he was not clear as to the reasons why, which is the reason for this Application. He said he noted from the Respondents comments that they say the grass is not cut enough and the pond area is not clean and tidy. This is disappointing, as he had never had problems with other Occupiers before now.

32. Several new people moved onto the Site a couple of years ago and seem to have issues with many aspects of living on the Site.

33. At the Hearing the Applicant confirmed his written statement of case which stated that on 29 February 2024 a Notice of a proposed new pitch fee upon the Respondent, accompanied by an appropriate form for the review due on 1 April 2024 (copy provided) was hand-delivered served by Dave Taylor, the Site manager, upon each of the occupiers.

34. The service of these documents for the 1 April 2024 Pitch Fee Review Proposal is not disputed.

Tribunal's Findings and Decision re Issue 1

35. The Tribunal accepts the oral and written statements and evidence of the Respondents and finds that the Applicant omitted to service a Pitch Fee Review Form on the Respondents for the 1 April 2023 Review. The form is mandatory and states:

Important Note: This form or a form substantially to the like effect, must be sent with the pitch fee review notice where the site owner proposes to increase the pitch

fee. Otherwise, the pitch fee will not be valid…. Both the site owner and the occupier(s) should read the notes at the end of this form as they contain important information about pitch fee reviews.

36. Section 5 of the Form sets out what to do if the Occupier disagrees with the proposed pitch fee and Section 7 of the Form sets out the guidance notes. The Tribunal finds that the omission of this information causes the pitch review to be invalid.

37. Therefore, the Tribunal decides the pitch fee review for 1 April 2023 is invalid and the current pitch fee, which should have been used to calculate the proposed increase is £249.93.

38. The Tribunal finds that the 1 April 2024 pitch fee review is valid in that it complies with the legislation in the documents provided. The fact that the correct documents have been provided is the reason for the Respondents' realising they can object to the increase. The percentage calculation based on the CPI is also correct. Following the Tribunal's decision regarding the previous reviews the current pitch fee is incorrect. The Tribunal finds that this does not invalidate the review. The Tribunal decides that what is stated as the current pitch fee on the form should be replaced by the current pitch fee determined by the Tribunal which is £249.93.

39. The Tribunal determined that this has resulted in an overpayment by the Respondents of the difference between £249.93 per month and £283.42 of £33.49 per month between 1 April 2023 and 31 March 2024. The total overpayment for the 12-month period being £401.88. Pursuant to section 231A(e) of Housing Act 2004 the Tribunal directs that the sum of £401.88 be paid by the Applicant to the Respondent within 48 days after the Tribunal sends this Decision.

40. The Tribunal therefore determines that the pitch fee that the Site Owner should have proposed in line with the presumption in paragraph 20 is 4% of £249.93 which is an increase of £9.92 giving a new pitch fee of £259.93.

Issue 2 – Reasons, Responses & Tribunal Findings re Objections to Increase

41. The Tribunal then considered the Respondents' submissions and the Applicant's responses to determine whether it would be unreasonable to increase the pitch fee because there had been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

42. Both parties provided a Statement of Case. Below are the issues raised by the Respondents for refusing to agree the proposed pitch fee increase to take effect on the Review Date on 1 April 2023 followed by the Applicant's reply and the Tribunal's findings.

Procedural Item

Respondents

43. The Respondents said that, contrary to the Applicant's statement that they did not respond to the Notice of Pitch Fee Increase, the Respondents said they sent an email on 30 May 2024 (copy provided), outlining the reasons for their refusal to pay the increased fee which were further detailed in the Statement of Case.

Applicant

44. The Applicant said that he recalled receiving the email and that the items raised are detailed in the Respondents' subsequent Statement of Case which are answered below.

Tribunal's Findings

45. The Tribunal found that the Respondents had identified and explained their reasons for not agreeing the increase and the Applicant had responded to their reasons in writing before the hearing and are set out below together with the Tribunal's findings.

1. Increase not justified

Respondents

46. The Respondents said that the increase for the previous year was 13.4% which meant the Respondents' pitch fee increased by £33.49 per month. However, there was very little maintenance carried out. The maintenance and improvement work referred to in the Applicant's letter of 29 March 2023 was not carried out to a good standard and was not completed.

Applicant

47. The Applicant acknowledged that it is correct the reviewed pitch fee for 2023 was a percentage increase of 13.4% resulting in an overall increase of £33.49 per month for the Respondents. The Applicant relied upon the presumption under Chapter 2 of Part 1 of Schedule 1 to the Act, specifically Implied Term 20(A1), having regard to the retail prices index (RPI), the relevant inflationary index at the time. Implied Term 20(A1) does not require that the Respondents must derive a benefit from a percentage increase in the relevant inflationary index. While this was a significant percentage increase, it is not a ground under paragraph 18(1) of the Implied Terms nor does it rebut the presumption in paragraph 20(A1) Implied Term as it is not a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services or a weighty factor.

Tribunal's Findings

48. The Tribunal followed the case of *Teignbridge District Council v Francis Clark* [2024] UKUT 0029 (LC), in which the Upper Tribunal found that "in giving weight to the "exceptional" level of increase in the RPI the First -tier Tribunal considered an irrelevant consideration." The Tribunal therefore found that it could not take account of the increase for the previous year of 13.4% which meant the Respondents' pitch fee increased by £33.49 per month.

49. The Tribunal found the Applicant was correct in stating that it is not a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services. It is also not a weighty factor to rebut the presumption in Implied Term 20(A1). Implied Term 20(A1) does not require that the Respondents derive a benefit from a percentage increase in the relevant inflationary index.

50. The Tribunal therefore went on to consider the specific issues raised by the Respondents to determine whether there had been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

2. Lights

Respondents

51. The Respondents said that the 3 lights along the road from the office to the gate were not fitted until 2024. The Respondent tripped over a "sleeping policeman" bump on 27 January 2024 because the luminous paint on the bump had worn away due to lack of maintenance. Photographs and video provided.

52. At the hearing the Respondents said that although the road does not belong to the Applicant he does carry out work such as filling potholes. They questioned why this did not extend to painting the speed bumps.

Applicant

53. On or around 11 May 2024, the Applicant said he installed three LED bulkhead fittings on to the wall of the Site that shine on to the access road. One light is controlled by an existing dusk till dawn sensor, and the remaining two are controlled by a new separate dusk till dawn sensor. There had been a delay in installing these lights as the wall does not belong to him and it took time to obtain the landowner's consent. Photographs provided.

54. Regarding the Respondent who tripped over a speed bump and sustaining an injury on 27 January 2024, the Applicant said he was not notified of this at the time. He said he was not the legal owner of this road which belongs to a neighbouring farmer and has an easement over the road as the only access to the Site. The Applicant had previously sought the landowner's permission to re-surface the road with tarmac to make it more presentable and to erect the traffic mirror. Further works to this road, such as to maintain the luminous paint on the bump, cannot be carried out without the landowner's permission and the landowner has not given permission to carry out any further works. At the hearing the Applicant said that he was just maintaining the road by filling potholes with cold tarmac. The landowner would not permit any more major work.

Tribunal's Findings

55. The Tribunal found there were two issues. Firstly, the installation of the lights was not a deterioration to the Site. There had been no lights prior to 27 January 2024. Secondly, unlike on public roads where the Highways (Road Humps) Regulations

1999 state the importance of appropriate warning signs there is no obligation to mark them on private roads. The Applicant having an easement over the road has a right to maintain the road but not to improve it without the landowner's permission. Considering the limited control the Applicant had over the road the Tribunal found that the loss of the markings was not a deterioration in the condition of land adjacent to the Site over which the Site Owner had control.

56. Therefore the Tribunal determined that there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

3. Solar Lights

Respondents

57. The Respondents questioned why the lights installed near their pitch were solar and motion sensitive and not main power lights.

Applicant

58. The lights installed by the park manager are solar and motion sensitive. These lights were installed on or around May to June 2024. Two of these lights are installed outside of the Respondents' mobile home. Solar lights were installed because their installation involved less work and disturbance to homeowners. If mains powered lights had been installed, it would have been necessary to dig up the tarmac and parts of homeowners' pitches. The lights are visually very similar to the existing main powered lights and do a good job of transmitting more light on the Site. The Applicant did not consider that the lights are detrimental or are of lesser quality to the lights that are mains powered. Photographs provided.

Tribunal's Findings

59. The solar lights are an addition and therefore not a deterioration to the Site. Solar lights have their limitations but are a generally accepted method of providing light in an environmentally and cost-effective manner.

60. Therefore the Tribunal determined that there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

4. Mirror

Respondents

61. A mirror was erected at the entrance to the Site so homeowners and visitors could see vehicles approaching from the left was installed in May 2024 moved about in the wind because it was not properly secured until much later. Photographs and video provided.

Applicant

62. On 20 May 2024, the Applicant purchased the mirror and installed it within 4 days of the request. Photographs of the mirror were provided. The traffic mirror had been erected quickly and re-secured on or around week commencing 10 February 2025. It was necessary to re-secure the mirror as it had been knocked by the neighbouring farmer's lorry, causing it to twist. This does not mean the original installation of the mirror had been performed inadequately.

Tribunal's Findings

63. The mirror is an addition and therefore not a deterioration to the Site. It is appreciated that, for whatever reason the mirror moved soon after having been erected. Nevertheless, from its inspection the Tribunal found that it was firmly in place and is effective.

64. Therefore the Tribunal determined that there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

5. Water Pooling by the Gate

Respondents

65. The Aco drain installed by the gate was not fitted properly and so water continues to pool there. The drain by the gate was not fitted properly. It is too small, appears to be an off-cut from another project, and does not effectively drain water. This results in pooling, which turns icy and hazardous in cold weather, posing a danger to residents. Photograph provided.

Applicant

66. On or around July to August 2024, a drain was installed by the entrance gate of the Site. This involved the digging of a six-inch trench and installation of a steel grid that goes into the neighbouring field. The landowner had allowed this drain to be installed but has since expressed their displeasure at its installation. He said he was unable to undertake further works to the drain due to not being able to obtain the landowner's permission to do so. The Park has recently been subject to unprecedented rainfall, but the drain appears to be sufficient for draining the water within twenty to thirty minutes of the rain stopping.

Tribunal's Findings

67. The drain is an addition and therefore not a deterioration to the Site notwithstanding its limited effect due to its relatively small aperture.

68. Therefore the Tribunal determined that there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

6. Recreational Area

Respondents

69. The Respondents said the Recreation Area is inaccessible because the ground becomes muddy in wet weather and there is no path. Also, the Area is unsightly because a fence panel has been removed, and a portable generator with a long blue hose has been left there. In addition, the septic tanks are proud of the ground level.

Applicant

70. The Applicant responded saying the Site is situated within the Oxfordshire countryside and therefore it is to be expected that there will be muddy areas and naturalistic boundaries within the green space; the installation of a path would diminish the area's naturalist look. In February each year, the benches in the pond area and common areas of the Site are sanded, primed, and painted and the green area and pond remain inviting and accessible. (Photographs provided).

71. In 2023, a fence panel had been removed and a portable generator with a blue hose had been situated in the area for around seven to ten days. As detailed in the letter from Cherwell District Council dated 13 November 2023, there was a faulty pump within the cesspit treatment area which required the use of an external pump as a temporary fix. This faulty pump has been replaced and the external pump removed. This remedial work had been documented and certified.

72. The septic tank is located underground. The hose and pipes referred to by the Respondents are ventilation pipes which are necessary for air to leave the tank as it fills up with wastewater.

7. Pond

Respondents

73. The Respondents considered the maintenance of the pond has not been done to a satisfactory standard and still looks very unkempt and neglected and is not part of a "fantastic recreation area" mentioned in the Site brochure. Photographs provided.

Applicant

74. The Applicant is limited in the works that can be undertaken with the pond due to resident newts, ducklings, moor hens and nesting birds. The Applicant is also balancing the wishes of other homeowners who do not wish for the wildlife to be disturbed. On 29 May 2024, 29 September 2024 and 18 October 2024, the Applicant had instructed a professional to maintain the pond, including the clearance of debris. Copies of the invoices for pond maintenance were provided. The Applicant said that the Respondents had taken photographs at the worst time of the year when the foliage has died. Reeds, flowers, and water lilies are usually present around the pond. Photograph of the pond taken on 4 March 2025 was provided.

8. Hedgerows

Respondents

75. The Respondents said the surrounding hedgerows remain cluttered with garden debris deposited by Site maintenance personnel. Large branches are being used as barriers instead of a proper fence, which does not effectively secure the park. This

has led to anti-social behaviour, with teenagers gathering in the area and disturbing residents.

Applicant

76. The Applicant said that he maintained the boundary hedgerows that belong to a neighbouring landowner and on 28 October 2024, the Applicant said he had instructed a professional to maintain the hedgerow. This included the removal of debris, twigs, leaves and keeping the hedgerows clean and tidy. A copy of the invoice for maintenance of the hedgerow was provided.

77. The Applicant said that the maintenance team dispose of grass cuttings in the hedgerow in the top field of the neighbouring farmland. This area is not on the Site. This practice has been in place, and in the same position, for the last 30 years when the Site had been in different ownership. The disposed cuttings are not visible unless one looks for them, or they are removed once the "professional" has visited the Park. The Applicant said he wrote to all homeowners on 19 April 2024 asking them not to put garden rubbish in the hedgerows as part of the drive to maintain the visual appearance of the Park.

78. The hedgerows contain large branches that are used as natural barriers. As detailed in the letter from Cherwell District Council dated 13 November 2023, (copy provided) in their opinion the Site meets the conditions of the site licence. This includes the boundaries. The Site remains secure and the branches remain in keeping with the Oxfordshire countryside. It was not agreed that this had led to anti-social behaviour from teenagers. Homeowners have not reported any disturbance. It may be the case that the teenagers referred to are walking down the neighbouring farmer's road or field. There is very little that can be done about this as this is outside the Site. If they were to come on to the Site, which has not happened to the Applicant's knowledge, then action would be taken promptly for them to leave.

Tribunal's Findings re 6. Recreation Area, 7. Pond and 8. Hedgerows

79. The Tribunal considered the recreation area, pond, and hedgerow together as they are all in the same part of the Site. The Tribunal observed at its inspection that the recreation area has a pond and is situated at the lowest part of the Site with the Site boundary at that point being a hedgerow.

80. The area is a wildlife habitat, the pond and hedgerow providing a pocket nature reserve. The Tribunal finds from its knowledge and experience that rural ponds and hedgerows are home to a variety of animals and at certain times of the year they may not be aesthetically pleasing because twigs and debris need to be left in situ and plants allowed to grow as part of the environmental management. On the day of the inspection the Tribunal found the area to be neat and tidy.

81. The area contains the enclosure for the septic tanks which serve the Site being located some way from the Homes because vents from the tanks emit odours which was evident at the Tribunal's inspection. It is understood that this is compounded by odours from the adjacent sewage treatment plant on land adjacent to the Site but not under the Applicant's control. In addition, regular maintenance needs to carried out on the septic tanks.

82. The Respondents said they were given the impression from the promotional material when they purchased their respective homes that this would be an area to sit and on occasion, socialise. The Tribunal found that the odours meant that many people would not find the area conducive to a social gathering.

83. The Tribunal found from what it saw on its inspection and from what was described by the Respondents that the condition of the recreation area, pond and hedgerow had not seen a deterioration in the Site nor did their condition amount to a weighty factor. The Tribunal distinguishes situations where occupiers had paid a level of pitch fee in anticipation of social facilities being provided but, after some time, when these were still not forthcoming, obtained a reduction in pitch fee. This could be reversed if, and when, the facility was provided. This situation is different. The Respondents were under the impression when they entered their written agreement that there was a recreation area of a particular description. They are now of the opinion that the recreation area was misrepresented. The Respondents are claiming that they were induced into entering a contract by a misrepresentation which is not a matter that can be dealt with as part of this Application.

84. Therefore the Tribunal determined that there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

9. Water Pooling and Flooding the Driveway

Respondents

85. The Respondents stated that a lot of water pools on the Respondents' driveway in heavy rain (video provided) due to lack of drainage which should have been installed prior to the block paving being laid. This becomes hazardous when it freezes in winter. The downpipe from the Respondent's home had to be diverted to the front garden. Despite numerous complaints, this flooding issue remains unaddressed.

Applicant

86. The Applicant referred to a letter (copy provided) from Chris Pegler, the Lead Licensing Enforcement Officer for Cherwell District Council wrote on 13 November 2023 referring to complaints made and an investigation undertaken and confirming that works required had been completed. These included works to improve drainage and lighting and confirmed compliance with site licence requirements. It is specifically stated that there was no evidence the Park has inadequate drainage and no evidence of flooding on the Site. It was also stated that while there is evidence of surface water during and shortly after long or heavy periods of rain, that water is dispersed adequately.

87. The Applicant said that the Respondents' pitch benefits from an 18-inch stone soakaway. The mobile home also benefits from guttering down pipes which is the responsibility of the Respondents. Any pooled water usually dissipates within twenty to thirty minutes of the rain stopping. Cherwell District Council have concluded that the drainage requirements of the Site have been met and the lack of a down pipe drainage connection is counteracted by the porous road construction and drainage.

Cherwell District Council confirmed in its letter of 13 November 2023 (Copy provided) that there was no evidence of flooding on the Site and that while there were some areas of water saturation and some puddles visible these were deemed to be at an acceptable level following period of rains, and/or heavy rain. The Lead Enforcement Officer's letter goes on to say that there is no evidence the Park has inadequate drainage. Any pooled water usually dissipates within twenty to thirty minutes of the rain stopping.

10. Stream

Respondents

88. The Respondents stated that the stream running through the park frequently overflows, causing flooding, particularly after heavy rain. (Video provided). Overhanging branches and other debris are not removed, exacerbating blockages. When staff have trimmed branches, they are left in the stream. The Respondent submitted that the Applicant as the Riparian owner is responsible for keeping the stream flowing. Email dated 17 October 2024 from Environment Agency provided. The Respondents disputed the Applicant's claim that the bank had only broken its banks once.

Applicant

89. The Applicant said that the stream running through the Site has only broken its bank once during the ownership of the Applicant. This was on 24 September 2024 after the Site experienced a month's rain fall in a 24-hour period, causing flooding in most parts of Oxfordshire. During this period, the small stream that runs through the Site burst its bank because of this extreme rain fall. This caused some flooding to homeowners' pitches and roads. The surface water had dissipated by the next afternoon and the roads were clear of water. On 27 September 2024, Cherwell District Council concluded that the drainage requirements of the Site had been met. A copy of the email was provided.

90. The Applicant said that overhanging branches and other debris are removed, and are not left in the stream when employees have trimmed branches. He said the stream is checked daily and anything that has fallen within it is removed immediately; also, maintenance work is carried out approximately three to four times a year as part of the regular maintenance of the Site.

Tribunal's Findings re 9. Water Pooling and Flooding the Driveway and 10. Stream

91. At the hearing the issues of the flooding driveway and stream were considered separately. The Water Pooling and Flooding the Driveway as a Pitch Issue and the Stream was initially seen as a Site Issue. However, in making its findings the Tribunal considered these two issues to be linked.

92. The Tribunal found apart from the car parks, driveways and Site Road, the Site has, as Chris Pegler, the Lead Licensing Enforcement Officer for Cherwell District Council found, drainage provision with use of gravel and soft surfaces. The Tribunal found that as well as the Site having a natural fall towards the southern boundary there is also a natural fall to the Site towards the pitches along the stream. The Tribunal noted the Applicant's evidence of the porous road construction and drainage. From the Tribunal's knowledge and experience it appeared that the Site Road which goes the length of the Site (from north to south) has 18-inch soakaways to take the water

crossing the Site (from west to east) to the stream. If these become inundated then water pools on the driveways of the pitches bordering the stream. From the Respondents' evidence this happens with some degree of regularity, notwithstanding that the water does eventually disperse, it causes the Respondents inconvenience.

93. The Tribunal found from its inspection that the rear fence to the Respondents' pitch is a pitch boundary in the same way as the pitch boundary to the Site Road. The Site Owner is responsible for the Site Road beyond the front pitch boundary and in this case for the stream beyond the rear pitch boundary.

94. The Tribunal found the stream has a natural fall towards the southern boundary of the Site. On the day of the inspection the stream was flowing gently and although narrow appeared deep sided. Nevertheless, the Tribunal was aware from its knowledge and experience that water courses can fill rapidly and overflow. The Respondents had only occupied the pitch since 2022 nevertheless the Tribunal was sceptical of the Applicant's claim that the stream had only overflowed once in the past 20 years. The Tribunal also doubted that the stream was checked every day noting some branches on the bed of the stream, but saw no evidence of blockage. On its inspection the Tribunal found that the pitch was susceptible to flooding from the stream.

95. The Tribunal understood the Applicant owns the land either side of the stream and therefore the stream bed and so is the riparian owner. As a riparian owner the Applicant has the right to receive the watercourse flow in its natural quantity and quality and to protect his property from flooding and erosion caused by the watercourse. The riparian owner also has the responsibility to maintain the bed and banks of the watercourse clearing litter debris and animal carcases and must allow the water to flow naturally, without obstruction, pollution, or diversion. The Applicant is therefore responsible for the stream.

96. The Tribunal found that the driveway and pitch were susceptible to flooding from inundation in heavy rainfall, irrespective of the drainage provisions and stream maintenance. The Tribunal referred to *Teignbridge District Council v Clark* [2024] UKUT 00279 (LC) in which it was said:

> *"Why I disagree with Mr. Ward's submission, is that the statute says nothing about causation. That means, I accept, that the statute places the financial consequences of externalities - whether weather conditions or anti-social behaviour or any other cause of a deterioration in the site, on the site owner rather than the occupiers. This is hardly surprising and certainly not irrational."* [26]

97. The Tribunal found that the susceptibility of the driveway and pitch to flooding was a deterioration in the condition or decrease in amenity of the Site under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

11. Grass Cutting

Respondent

98. The Respondent complained that the grass was not cut often enough. The Respondent's said at the hearing that the Applicant had said at the time the Respondents entered their written agreement that he would arrange for the grass on their pitch to be cut. The Respondents said that this was rarely done.

Applicant

99. Where the weather permits, the Applicant cuts the grass on the Site every week. Since May 2024, the Applicant has also instructed another person to cut the grass weekly, alongside the current arrangement, so the grass is cut quicker. A copy of the invoice demonstrating the Applicant's monthly expenditure for additional maintenance and gardening was provided.

Tribunal's Findings

100. The Tribunal found that there were few common areas of grass, the main one being the recreation area. The area of grass referred to in this instance is that in the front of the Respondent's pitch. The Respondents were under the impression when they entered their written agreement that the grass in the front of their pitch would be cut by the Applicant's workers. They now state that this is not being done in the way they were told and they consider they were misled. The Respondents are claiming that they were induced into entering a contract by a misrepresentation which is not within the jurisdiction of the Tribunal in respect of this Application.

101. Therefore the Tribunal determined that there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

12. Visitor Parking

Respondents

102. The Respondents contested that the visitor parking has not been finished having been started months ago and is an eyesore. Considering the number of homes on the Site and that two further pitches have been created; it was submitted that there is an inadequate number of visitor parking spaces available. Most occupiers have two cars, and use the visitor spaces to park their second car. Most of the time there are no visitors' spaces available, therefore people must park in the top car park which is difficult for people with disabilities. At the hearing the Respondents said that there was a particular problem with Occupiers parking in the visitors' car park near the front gate. At the inspection they had pointed out that one Occupier, whose pitch was adjacent, had put up a sign claiming that the area by the sign was that Occupier's exclusive parking space, whereas it was situated in the visitors' car park. It was conceded that there may be a reason for the claim in that the Occupier's pitch was adjacent to the visitors' car park and he or she may be disabled, nevertheless it was said there needed to be clarity.

Applicant

103. The Applicant said that there are approximately seventy visitor parking spaces on the Site. These are broken down as follows: the top car park can accommodate forty vehicles, the office car park can accommodate six vehicles, the middle car park can accommodate twenty vehicles and the new visitor parking spaces by the pond can currently accommodate five to six vehicles. On or around September 2024, since the last pitch fee review, five to six additional visitor parking spaces had been created at the bottom of the Site by the pond. This area was an eyesore whilst the ground works were being undertaken but this is an unavoidable step. The parking spaces were completed within approximately two weeks. The Applicant said that he was in the process of extending this to accommodate ten to fourteen parking spaces. Again, these works will be an eyesore whilst the ground works are being undertaken but it is hoped to complete these within the next couple of weeks. These spaces are of great benefit to homeowners in allowing their visitors to park on a paved area. He added that he is not seeking to recover the expenditure incurred in creating these parking spaces, notwithstanding that this is an improvement. Photographs provided.

104. The Applicant acknowledged that two more new pitches had been created near the visitor parking spaces. However, homeowners benefit from enough space to park one or two vehicles alongside and should not be parking within the visitor parking spaces. The Applicant said that he had written to homeowners confirming that the car park nearest the entrance is for visitors' vehicles and the top car park is for homeowners' additional vehicles and no commercial vehicles are to be parked on the Site.

Tribunal's Findings

105. The Tribunal found from its inspection that most if not all pitches had a parking space but the Respondents said that there were still too few as many occupiers had two vehicles. The Tribunal finds from its knowledge and experience that it appears no matter how many spaces there are, and here there are 70 apart from those on the pitches, there never seem enough. It was appreciated that the top car park is some distance from the Site nevertheless its 40 spaces is a valuable amenity. Signage and the marking of spaces in the visitor car park near the main gate may clarify its use. The Tribunal accepted that in forming the new spaces there had been some disruption. However, this was relatively transient and ultimately the work was to the benefit of the Occupiers including the Respondents. Notwithstanding the parking problems the Tribunal found that there had been an increase in the number of parking spaces and therefore this was not a deterioration or decrease in amenity of the Site or a weighty factor.

106. Therefore the Tribunal determined that there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

13. Tree and Fencing

Respondents

107. The Respondents said they had a tree removed in October 2022, because it was considered dangerous by the tree surgeons employed by the Respondents. The Respondents said the tree was growing at the rear of the pitch. The cost of this was split between the Respondents and their neighbour at a total cost of £600. Invoice provided. It was considered dangerous as the bank of the stream below the trees was lifting which was due to the largest tree leaning over on to the Respondents' fence. Despite numerous requests to the Applicant, they said he had failed to instruct the relevant company to fell the trees. The Respondents said they also had to shore up boundary fencing on their pitch due to wind damage.

Applicant

108. The Applicant said he inspected the tree complained of by the Respondents but took the view that it was not an issue as although it was about 12 feet tall it was just a glorified big branch and while touching the Respondents' fence, it did not appear to be damaging it. As the Respondents complained about the tree, the Applicant said he offered to have it cut down, albeit not urgently, but the Respondents said they did not want this done at that time. The Respondents later went on to have the tree cut down by Treetech Arboriculture Services Ltd on or around 17 October 2022. The TreeTech invoice does not describe the felled trees as being dangerous. In accordance with Implied Term 21(d) it is the Respondents' responsibility to maintain the Pitch, including all fences belonging to or enjoyed with it, in a clean and tidy condition.

Tribunal's Findings

109. The Tribunal found from its inspection that the rear fence to the pitch is a pitch boundary in the same way as the pitch boundary to the Site Road. The Site Owner is responsible for the Site Road beyond the front pitch boundary and in this case for the stream beyond the rear pitch boundary. The Tribunal found from the Respondent's description and photographs that the tree complained of was within the Respondents' pitch although its roots would have extended to the stream bank. The Applicant had offered to cut the tree down but had not considered its removal urgent. The Respondents did not agree and instructed a contractor to cut the tree down.

110. Therefore the Tribunal determined that there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

14. Pitch Landscaping

Respondents

111. The Respondents said they had to landscape their pitch but were led to believe from the promotional material that this would be done by the Site Owner.

Applicant

112. The Applicant said that Respondents benefit from a full landscaped garden and block paved drive. As can be seen in photographs of the Site, the landscaping includes

grass around the mobile home, several plants, shrubs and trees, block paved driveway, and a slabbed footpath to the front and back door of the mobile home. The Respondents appeared happy with the landscaping when they first purchased their mobile home, however each homeowner is entitled to landscape their pitch to suit their individual preferences.

Tribunal's Findings

113. The Respondents were under the impression when they entered their written agreement that their pitch would be landscaped. They are now of the opinion that this was misrepresentation. The Respondents are claiming that they were induced into entering a contract by a misrepresentation which is not a matter that can be dealt with as part of this Application.

114. Therefore the Tribunal determined that there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

15. General Condition of the Site

Respondents

115. The Respondents provided photographs which they submitted showed that the Site did not meet the standards that might be expected on a Site as set out on the LEASE website.

Applicant

116. The Applicant refuted that the Site was in a poor condition and not regularly maintained (photographs provided). He said that one of the Respondents' site photos is of an area belonging to the neighbouring farmer and are approximately 2,000 yards from the Respondents' mobile home. The barn photographed by the Respondents is not located on the Site but it is on land owned by the Applicant and was demolished within one day.

Tribunal's Findings

117. The Tribunal found for its inspection that the barn referred to had been removed and that the general condition of the Site was good.

118. Therefore the Tribunal determined that there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

16. Incorrect Invoicing for Services

Respondents

119. The Respondents said that the Applicant's invoice listing grass cutting services at a cost of £800 per month, allegedly performed by Martin Clark from May 2024 to

December 2024 is incorrect as Mr. Clark was not employed until November 2024. Also, the invoice provided, does not adhere to the requirements of GOV.UK in terms of information to be detailed. Furthermore, the Respondents said they no longer have grass on our plot, as we personally invested in landscaping due to the poor state of the grounds and infrequent grass cutting.

Applicant

120. The Applicant said that Mr Martin Clark was and continues to be employed by me from May 2024 to cut grass on the Site.

Tribunal's Findings

121. The Tribunal found that the whether the invoice was in the correct form was not a matter that affected the condition of the Site or was relevant to the pitch fee review.

Tribunal Decision re Issue 2

122. The Tribunal determined that except for Items 9. Water Pooling and Flooding the Driveway and 10. Stream there had not been a deterioration in the condition or decrease in amenity of the Site or a reduction in services supplied to the pitch or mobile home, or any deterioration in the quality of those services under paragraph 18(1) or a weighty factor which rebutted the presumption in paragraph 20 (A1) of the Implied Terms of the Written Statement of Agreement set out in Chapter 2 of Part 1, of Schedule 1 of the Mobile Homes Act 1983.

123. Pitch 89 including its driveway was susceptible to flooding from water inundation in heavy rainfall, although as the Home is raised above the ground level, to date the water has subsided before affecting the Home itself. This inundation is due to the contours of the Site falling towards the stream and the related factor of the stream overflowing. This may be a relatively recent phenomenon which was not apparent when the Site was developed and therefore is a deterioration. Alternatively, it is a weighty factor because whenever it became apparent or whatever its cause, it creates significant inconvenience for the Respondents.

124. The Tribunal determined that an increase in line with inflation was warranted but that this should be limited to 2% rather than 4%. Therefore, the corrected current pitch fee of £249.93 is increased by 2% being an increase of £5.00 which gives a new pitch fee for 89 Duval Park of £254.93 per month to take effect on the Review Date on 1 April 2024.

Summary of Decisions

125. The Tribunal determines the new pitch fee for 89 Duvall Park Homes as £254.93 per month to take effect on the Review Date on 1 April 2024.

126. The Tribunal directs that the overpayment of the pitch fee for the period 1 April 2023 to 31 March 2024 of £401.88 by the Respondents shall be paid by the Applicant to the Respondent within 48 days after the Tribunal sends this Decision pursuant to section 231A(e) of Housing Act 2004.

Judge JR Morris

Appendix 1 – Right of Appeal

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

3. If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e., give the date, the property, and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

Appendix 2 – The Law

1. Section 2 of the Mobile Homes Act 1983 ("the Act") provides that the terms of Part 1 of Schedule 1 to the Act shall be implied and shall have effect notwithstanding the express terms of the Agreement. Paragraphs 16 to 20 of Chapter 2 of Schedule 1 to the Act were introduced by the Mobile Homes Act 1983 (Amendment of Schedule 1) (England) Order 2006. The relevant provisions of the legislation that apply to this decision given the issues raised are as follows:

2. Paragraph 16 provides:

The pitch fee can only be changed in accordance with paragraph 17, either—

(a) with the agreement of the occupier, or

(b) if the court, 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.

3. Paragraph 17 provides:

(1) The pitch fee shall be reviewed annually as at the review date.

(2) At least 28 clear days before the review date the owner shall serve on the occupier a written notice setting out his proposals in respect of the new pitch fee.

(2A) In the case of a protected site in England, a notice under subparagraph (2) which proposes an increase in the pitch fee is of no effect unless it is accompanied by a document which complies with paragraph 25A.

(3) If the occupier agrees to the proposed new pitch fee, it shall be payable as from the review date.

(4) If the occupier does not agree to the proposed new pitch fee—
- *(a) the owner or (in the case of a protected site in England) the occupier may apply to the court for an order under paragraph 16(b) determining the amount of the new pitch fee;*
- *(b) the occupier shall continue to pay the current pitch fee to the owner until such time as the new pitch fee is agreed by the occupier or an order determining the amount of the new pitch fee is made by the court under paragraph 16(b); and*
- *(c) the new pitch fee shall be payable as from the review date but the occupier shall not be treated as being in arrears until the 28th day after the date on which the new pitch fee is agreed or the 28th day after the date of the court order determining the amount of the new pitch fee.*

(5) 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.

Sub- Paragraphs (6) to 10 are not applicable to this case

(11) Sub-paragraph (12) applies if a tribunal, on the application of the occupier of a pitch in England, is satisfied that—
- *(a) a notice under sub-paragraph (2) or (6)(b) was of no effect because of sub-paragraph (2A) or (6A), but*
- *(b) the occupier nonetheless paid the owner the pitch fee proposed in the notice.*

(12) The tribunal may order the owner to pay the occupier, within the period of 21 days beginning with the date of the order, the difference between—
- *(a) the amount which the occupier was required to pay the owner for the period in question, and*
- *(b) the amount which the occupier* has paid the owner for that period.

4. Paragraph 18 provides:

(1) *When determining the amount of the new pitch fee particular regard must be had to –*
- *(a) any sums expended by the owner since the last review date on improvements-*
  - *(i) which are for the benefit of the occupiers of mobile homes on the protected site;*
  - *(ii) which were the subject of consultation in accordance with paragraphs 22(f) and (g); and*
  - *(iii) to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the court [tribunal] on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;*

(aa) in the case of a protected site in England, any deterioration in the condition, and any decrease in the amenity, of the site or any adjoining land which is occupied or controlled by the owner since the date on which this paragraph came into force [26th May 2013] (in so far as regard has not previously been had to that deterioration or decrease for the purposes of this subparagraph);

(ab) in the case of a protected site in England, any reduction in the services that the owner supplies to the site, pitch or mobile home, and any deterioration in the quality of those services, since the date on which this paragraph came into force (in so far as regard has not previously been had to that reduction or deterioration for the purposes of this subparagraph);

(b) …

(ba) in the case of a protected site in England, any direct effect on the costs payable by the owner in relation to the maintenance or management of the site of an enactment which has come into force since the last review date;

(1A) But, in the case of a pitch in England, no regard shall be had, when determining the amount of the new pitch fee, to any costs incurred by the owner since the last review date for the purpose of compliance with the amendments made to this Act by the Mobile Homes Act 2013

5. Paragraph 20 provides that:

(A1) In the case of a protected site in England, 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 no more than any percentage increase or decrease in the consumer prices index calculated by reference only to—

(a) the latest index, and

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

(A2) In sub-paragraph (A1), "the latest index"—

(a) in a case where the owner serves a notice under paragraph 17(2), means the last index published before the day on which that notice is served;

(b) in a case where the owner serves a notice under paragraph 17(6), means the last index published before the day by which the owner was required to serve a notice under paragraph 17(2)

6. Section 231A of the Housing Act 2004 provides:

Additional Powers of First-tier Tribunal and Upper Tribunal

(1) The First-tier Tribunal and Upper Tribunal exercising any jurisdiction conferred by or under the Caravan Sites and Control of Development Act 1960, the Mobile Homes Act 1983, the Housing Act 1985 or this Act has, in

addition to any specific powers exercisable by them in exercising that jurisdiction, the general power mentioned in subsection (2).

(2) The tribunal's general power is a power to give such directions as the tribunal considers necessary or desirable for securing the just, expeditious and economical disposal of the proceedings or any issue in or in connection with them.

(3) When exercising jurisdiction under this Act, the directions which may be given by the tribunal under its general power include (where appropriate)—

(a) directions requiring a licence to be granted under Part 2 or 3 of this Act;

(b) directions requiring any licence so granted to contain such terms as are specified in the directions;

(c) directions requiring any order made under Part 4 of this Act to contain such terms as are so specified;

(d) directions that any building or part of a building so specified is to be treated as if an HMO declaration had been served in respect of it on such date as is so specified (and such a direction is to be an excluded decision for the purposes of section 11(1) and 13(1) of the Tribunals, Courts and Enforcement Act 2007);

(e) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.

(3A) …

(4) When exercising jurisdiction under the Mobile Homes Act 1983, the directions which may be given by the tribunal under its general power include (where appropriate)—

(a) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise;

(b) directions requiring the arrears of pitch fees or the recovery of overpayments of pitch fees to be paid in such manner and by such date as may be specified in the directions;

(c) directions requiring cleaning, repairs, restoration, re-positioning or other works to be carried out in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions;

(d) directions requiring the establishment, provision or maintenance of any service or amenity in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions.

7. In the case of *Away Resorts Ltd v Morgan* [2018] UKUT 123 (LC) the Upper Tribunal confirmed that the powers granted by s231A(4)(a) of the Housing Act 2004, are broad and designed to allow proceedings to be disposed of. They are not merely limited to procedural directions and can include orders akin to injunctive relief.