



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

Case Reference : **CAM/38UB/PHI/2024/0611**

HMCTS : **Inspection & Hearing**

Site : **Duvall Park Homes, Heyford leys, Upper Heyford
OX25 5LX**

Park Home Address : **92 Duvall Park Homes, Heyford Leys, Upper
Heyford OX25 5LX**

Applicant : **Mr Liberty Durant**
Representative : **Tozers LLP**

Respondent : **Mrs Sheila Medlin**

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

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Decision

1. The Tribunal determines the new pitch fee for 92 Duvall Park Homes as £249.60 per month to take effect on the Review Date on 1 April 2024.
2. The total overpayment over the four-year period between 1 April 2020³¹ March 2024 being £1,207.80 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 Respondent who is the owner of a Home that is sited on pitch 92 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 2025 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 92 occupied by the Respondent of £306.63 per month to take effect on the Review Date on 1 April 2024 to replace the current pitch fee of £294.84 per month which was reviewed on 1 April 2023, giving an increase of £11.79 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 Respondent. 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 tarmac 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 tarmac 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 Respondent’s pitch which backs onto the stream which was flowing gently on the day of the inspection. The stream banks are steep and quite deep (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 Respondent. 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 Respondent 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 Respondent was 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 Respondent was 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 Respondent was 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 Respondent 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.

Respondent's Case

24. A copy of the Respondent's Written Agreement was provided which stated that the Agreement started on 1 December 2019 with the fee of £240.00 per month payable from 1 December 2019. The Respondent later received the following Notices of Increase from the Site Owner in the form of a letter as follows (Copies were provided):

- a) 29 February 2020

Dear Mrs Medlin

The RPI rent increase is 2.7% this year which brings your rent up to £246.48 as from the 1st April.

Yours sincerely

*Mr Durant
PP S Kennedy*

- b) 1 March 2021

RPI Increase 1st April 2021

The Ground Rent increase comes into effect on 1st April 2021. 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 1.4% 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 2020 £246.48*

RPI Increase @ 1.4% £3.45
Ground Rent 2021 £249.93

c) 28 February 2022

RPI Increase 1st April 2022

The Ground Rent increase comes into effect on 1st April 2022. 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 7.8% and this is the figure we have used in calculating your new Ground Rent payment for 2022.

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 2021 £249.93
RPI Increase @ 7.8% £19.49
Ground Rent 2022 £269.42

d) 1 March 2023

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 £260.00
RPI Increase @ 13.4% £34.84
Ground Rent 2023 £294.84

It was noted that this Notice stated a current pitch fee of £260.00 per month rather than the £269.42 that had been charged. However, the increase calculation for 2023 was based on £260.00 per month.

25. The Respondent said that every year from 2020 to 2023, she had only received Notice of Increase letter with no mention of a Pitch Fee Review Form. She said she had I have only been given a ground rent rise letter (no mention of the Pitch Fee Review form). 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 £294.84 per month. The new pitch fee we are proposing is £ 306.63 per 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.

26. The Respondent said that 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. She added that she did not question the previous year's rises because she did not know she could. She said had she been given the Pitch Fee Review Form in the past she most certainly would have not paid the very high increases in 2022 and 2023 without a challenge.
27. The Respondent submitted that the Pitch Fee Reviews of 1 April 2020 to 1 April 2023 were invalid and therefore her current pitch fee should be for £240.00.
28. At the hearing the Respondent 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 £240.00.
29. Even if the current pitch fee were corrected the Respondent still disputes 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 Respondent's comments that she said 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 Respondent and finds that the Applicant omitted to service Pitch Fee Review Forms on the Respondent for the 1 April 2022 and 1 April 2023 Reviews. 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 reviews for 1 April 2020 to 1 April 2023 are invalid and the current pitch fee, which should have been used to calculate the proposed increase is £240.00.
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 Respondent 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 £240.00.
39. The Tribunal determined that this has resulted in an overpayment by the Respondent of:
- a) the difference between £240.00 per month and £246.48 of £6.48 per month between 1 April 2020 and 31 March 2021. The overpayment for the 12-month period being £77.76;
 - b) the difference between £240.00 per month and £249.93 of £9.93 per month between 1 April 2021 and 31 March 2022. The overpayment for the 12-month period being £119.16;

c) the difference between £240.00 per month and £269.42 of £29.42 per month between 1 April 2022 and 31 March 2023. The overpayment for the 12-month period being £352.80;

d) the difference between £240.00 per month and £294.84 of £54.84 per month between 1 April 2023 and 31 March 2024. The overpayment for the 12-month period being £658.08.

The total overpayment over the four-year period is:

1 April 2020 and 31 March 2021	£77.76
1 April 2021 and 31 March 2022	£119.16
1 April 2022 and 31 March 2023	£352.80
1 April 2023 and 31 March 2024	<u>£658.80</u>
Total	£1,207.80

Pursuant to section 231A(e) of Housing Act 2004 the Tribunal directs that the sum of £1,207.80 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 £240.00 which is an increase of £9.60 giving a new pitch fee of £249.60.

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

41. The Tribunal then considered the Respondent's 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 Respondent 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.

1. Grass Cutting

Respondent

43. The Respondent said that when she purchased her Home she was assured by the Applicant the grass on her pitch would be cut every week but since 2022 the grass cutting has been haphazard. She said this happened for the first year until the Applicant developed a new site nearby and three maintenance men were moved to the new site. From 2022 she said she had paid £15 per week to a gardener to keep her property tidy. During the grass cutting season of 2023 the grass was only cut by the maintenance team 3 times. The Respondent said that whenever she reported anything to the office the reply was always "well there's no-one here, they are all at Heathfield" which is a new park home site the Applicant is developing.

Applicant

44. The Applicant said he did not agree that the grass cutting had been 'haphazard' since around 2022. It is cut every week, when the weather permits. In May 2024 there was an increase in the maintenance workforce so the grass could be cut more often, albeit weather permitting. Mr Martin Clark was and continues to be employed from May 2024 to cut grass on the Site (invoice provided).

Tribunal's Findings

45. 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 part of the Respondent's pitch. The Respondent said she was told when she entered the Written Agreement that the grass in the front of the pitch would be cut by the Applicant's workers. However, this was not part of the Written Agreement and was a separate arrangement. The Respondent is claiming that the Applicant has failed to comply with an oral agreement or that she was induced into entering the Written Agreement by a misrepresentation, neither of which can be dealt with through a pitch fee review.
46. 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.

2. Recreation Area, Pond, and Hedgerows

Respondent

47. The Respondent said that when she purchased her Home, she was told that there was a "lovely residents recreation area" with a "lovely pond." She said the area smells awful from the septic tanks and is neglected. She said the hedgerow has become a dumping ground for grass cuttings, fallen branches, and dead tree residue. In addition, there is a pump and blue pipe from the septic tanks to the pond which is unsightly.

Applicant

48. The Applicant said that the pond and boundary hedgerow surrounding the recreation area have been maintained. On 29 May 2024, 29 September 2024 and 18 October 2024, a contractor was employed to maintain the pond, including the clearance of debris.
49. In 2023, the Respondent said that 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 a letter from Cherwell District Council dated 13 November 2023 (copy provided), 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.
50. 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 and a photograph.

51. 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 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.
52. 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 and Occupiers have not reported any disturbance. The Applicant said that it may be the case that the teenagers referred to are walking down the neighbouring farmer's road or field but 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.
53. The Lead Licensing Enforcement Officer for Cherwell District Council on 13 November 2023, confirmed in a letter (copy provided) that any sewage odours in the area have been professionally assessed as being emitted from the adjacent sewage treatment plant. The sewage treatment plant is on land adjacent to the Site and not under the Applicant's control.

Tribunal's Findings

54. 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.
55. 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.
56. 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 be carried out on the septic tanks.

57. The Respondent 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.
58. The Tribunal found from what it saw on its inspection and from what was described by the Respondent 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 Respondent was under the impression when she entered her Written Agreement that there was a recreation area of a particular description. She is now of the opinion that the recreation area was misrepresented. The Respondent is claiming that she was induced into entering a contract by a misrepresentation which is not a matter that can be dealt with as part of this Application.
59. 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. Boundary Fence

Respondent

60. The Respondent said that the boundary fence on the opposite side of the stream at the rear of her garden had been loose for many months and despite reporting this on 22 April 2024, nothing was done until it eventually fell into the stream on 2 December (photograph provided). Although it was put back up the Respondent said that it is still loose and not fixed at one end so consequently flaps around in the wind.

Applicant

61. The Applicant said he had re-secured the panel on 7 December 2024 but due to its open position, it is affected by the wind resulting in it swaying slightly.

Tribunal's Findings

62. The Tribunal found from its inspection that the rear fence to the Respondent's 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. Fence panels to the rear of the Respondent's pitch are her responsibility those on the opposite side of the stream are either the responsibility of a pitch owner or the Site Owner. In the event the fence panel on the opposite side of the stream has been put back in place.
63. Generally, a deterioration in condition or loss of amenity is permanent or relatively long standing, or has a significant effect on the Site or Occupier. The Tribunal found that this was a transient disrepair and so not a deterioration in the condition of the site or loss of amenity.

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.

4. Stream

Respondent

65. The Respondent said that the stream that is at the back of her pitch is not maintained and weeds and nettles grow up higher than her fence (photographs provided). On 11 September, 30 September and 5 October and 12 November the Respondent said she informed the Applicant that the area needed to be cleared but no maintenance was carried out, after which the stream was cleared and the fence painted.

Applicant

66. 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 in 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

67. Generally, a deterioration in condition or loss of amenity is permanent or relatively long standing, or has a significant effect on the Site or Occupier. 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. Parking

Respondent

68. The Respondent said that the Applicant had been asked to stop Occupiers parking in the car park by the gate which is for visitors but nothing has been done. Some additional car parking has been provided but this is not sufficient. Additional parking has been provided near the recreation area although this is being used by the Occupiers of the Home nearby. Some Occupiers are parking outside their Home on the Site Road restricting access.

Applicant

69. 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 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. He said 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.

70. The Applicant acknowledged that two more new pitches near the visitor parking spaces had been created. However, homeowners benefit from enough space to park one or two vehicles alongside and should not be parking within the visitor parking space. 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. No commercial vehicles are to be parked on the Site.
71. The Applicant said there is a limit to how much he can influence or dictate car parking by Occupiers and their visitors unless it is in breach of the terms of their Agreements or the Park Rules. He added that he was dependent on Occupiers letting him know at the time when there may be a breach so he can investigate and act as there is very little he can do if told after the event.

Tribunal's Findings

72. The Tribunal found from its inspection that most if not all pitches had a parking space but the Respondent 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 Respondent. 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.
73. 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.

Tribunal's Decision re Issue 2

74. 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.

75. The Tribunal determined that an increase in line with inflation was warranted and that this should be in accordance with 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. Therefore, the corrected current pitch fee of £240. is increased by 4% being an increase of £9.60 which gives a new pitch fee for 89 Duval Park of £249.60 per month to take effect on the Review Date on 1 April 2024.

Summary of Decisions

76. The Tribunal determines the new pitch fee for 92 Duvall Park Homes as £249.60 per month to take effect on the Review Date on 1 April 2024.
77. The total overpayment over the four-year period between 1 April 2020 to 31 March 2024 being £776.56 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.