



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

Case Reference : **CAM/38UB/PHI/2024/0609**

HMCTS : **Inspection & Hearing**

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

Park Home Address : **96 Duvall Park Homes, Heyford Leys, Upper
Heyford OX25 5LX**

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

Respondent : **Mrs Rita Heyworth**

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 96 Duvall Park Homes as £192.40 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 from between 1 April 2018 and 31 March 2024 of £1,830.60 by the Respondent 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 96 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.” The Site Owner refers to “ground rent” in the Review Notices, the term “pitch fee” should be used.
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 96 occupied by the Respondent of £259.29 per month to take effect on the Review Date on 1 April 2024 to replace the current pitch fee of £249.32 per month which was reviewed on 1 April 2023, giving an increase of £9.97 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 is at the corner on the north side between the Site Road from the entrance to the Site Road that runs the length of the Site north to south. There is a natural fall from the north end to the south and the Respondent's pitch is lower than its neighbour with a retaining wall about 500 mm or 18 inches high holding back the neighbour's pitch. The wall is along the Respondent's block paved drive and is of stone facing with drain pipes onto the driveway. There is a natural fall, west to east, towards the stream running behind the pitches on the opposite side of the road which is the length of the Site, north to south.
18. The Tribunal noted a gap between the brick skirt wall of the Home and the Home itself.
19. On the day of the inspection the Tribunal found the Site to be in good condition and well maintained.

Hearing

20. Following the Inspection a hearing was held which was attended by the Applicant and the Respondent who has impaired hearing and so was assisted by Mrs Peck. 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

21. The Respondent raised a preliminary issue in her written statement of case and orally at the hearing, that she 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.
22. 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.

23. 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.
24. 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

25. A copy of the Respondent's Written Agreement was provided which stated that the Agreement started on 1 February 2018 with the fee of £185.00 per month payable from 1 February 2018.
26. The Respondent later received Notices of Increase from the Site Owner in the form of letters for the reviews thereafter. She was able to provide copies of the Notice of Increase letters for 1 April 2018, 1 April 2021, and 1 April 2023 but could not find the Notice of Increase letters for the pitch review of 1 April 2019 and 1 April 2020. From the information provided in the Notices of Increase for the reviews that were the Tribunal was able to calculate by reference to the RPI for the relevant years, the percentage increases and resulting pitch fees for the missing years. The text to the Notice of Increase letters and the missing figures are set out as follows: that the RPI increase was 2.7% giving a figure of £5.19 which makes the new pitch fee

a) 5 March 2018

RPI Increase 1st April 2018

The Ground Rent increase comes into effect on 1st April 2018. 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 4% and this is the figure we have used in calculating your new Ground Rent payment for 2018.

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.

*Yours Sincerely
DUVALL PARK HOMES*

Undernote:

<i>Ground Rent 2017</i>	<i>£185.00</i>
<i>RPI Increase @ 4%</i>	<i>£7.40</i>
<i>Ground Rent 2018</i>	<i>£192.40</i>

b) RPI Increase 1st April 2019 (Tribunal calculation)

Pitch Fee 2018	£192.40
RPI Increase @ 1.8%	£3.46
Ground Rent 2019	£195.86

c) RPI Increase 1st April 2020 (Tribunal calculation)

Pitch Fee 2019	£195.86
RPI Increase @ 2.7%	£5.29
Ground Rent 2020	£201.15

d) 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 2021.

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:

<i>Ground Rent 2020</i>	<i>£201.15</i>
<i>RPI Increase @ 1.4%</i>	<i>£2.81</i>
<i>Ground Rent 2021</i>	<i>£203.96</i>

e) RPI Increase 1st April 2022 (Tribunal calculation)

Pitch Fee 2021	£203.96
RPI Increase @ 7.8%	£15.90
Ground Rent 2022	£219.86

f) 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:

<i>Ground Rent 2021</i>	<i>£219.86</i>
<i>RPI Increase @ 13.4%</i>	<i>£29.46</i>
<i>Ground Rent 2022</i>	<i>£249.32</i>

27. The Respondent said that every year from 2018 to 2023, she had only received a Notice of Increase letter none of which made mention of a 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 £249.32 per month. The new pitch fee we are proposing is £259.29 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.

28. 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.
29. The Respondent submitted that the Pitch Fee Reviews of 1 April 2018 to 1 April 2023 were invalid and therefore her current pitch fee should be £185.00.
30. At the hearing the Respondent confirmed that she 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, she submitted that because the current pitch fee is incorrect in the documentation their pitch fee should continue to be £185.00.
31. 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 her case is set out below.

Applicant's Case

32. 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.

33. 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 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.
34. 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.
35. 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.
36. 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

37. The Tribunal accepts the oral and written statements and evidence of the Respondent and finds that the Applicant omitted to serve Pitch Fee Review Forms on the Respondent for the 1 April 2018, 1 April 2019, 1 April 2020, 1 April 2021, 1 April 2022, and 1 April 2023 Reviews. Notwithstanding that the Respondent was not able to produce all the Notices of Increase the Tribunal was satisfied that on the balance of probabilities the Respondent received all the Notices but did not receive the Pitch Fee review Form. 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.

38. 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.
39. Therefore, the Tribunal decides the pitch fee reviews for 1 April 2018 to 1 April 2023 are invalid and the current pitch fee, which should have been used to calculate the proposed increase is £185.00.
40. 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 she could 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 £185.00.

41. The Tribunal determined that this has resulted in an overpayment by the Respondent of:

a) the difference between £185.00 per month and £192.40 of £7.40 per month between 1 April 2018 and 31 March 2019. The overpayment for the 12-month period being £88.80;

b) the difference between £185.00 per month and £195.86 of £10.86 per month between 1 April 2019 and 31 March 2020. The overpayment for the 12-month period being £130.32;

c) the difference between £185.00 per month and £201.15 of £16.15 per month between 1 April 2020 and 31 March 2021. The overpayment for the 12-month period being £193.80;

d) the difference between £185.00 per month and £203.96 of £18.96 per month between 1 April 2021 and 31 March 2022. The overpayment for the 12-month period being £227.52;

e) the difference between £185.00 per month and £219.86 of £34.86 per month between 1 April 2022 and 31 March 2023. The overpayment for the 12-month period being £418.32;

f) the difference between £185.00 per month and £249.32 of £64.32 per month between 1 April 2023 and 31 March 2024. The overpayment for the 12-month period being £771.84.

The total overpayment over the six-year period is:

1 April 2018 and 31 March 2019	£88.80
1 April 2019 and 31 March 2020	£130.32
1 April 2020 and 31 March 2021	£193.80
1 April 2021 and 31 March 2022	£227.52
1 April 2022 and 31 March 2023	£418.32
1 April 2023 and 31 March 2024	<u>£771.84</u>
Total	£1,830.60

Pursuant to section 231A(e) of Housing Act 2004 the Tribunal directs that the sum of £1,830.60 be paid by the Applicant to the Respondent within 48 days after the Tribunal sends this Decision.

42. 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 £185.00 which is an increase of £7.40 giving a new pitch fee of £192.40.

Background

Respondent

43. In her Statement of Case the Respondent said that she bought her Home for £330,000 and entered a Written Agreement in September 2017 having been assured that the Site, which was still being constructed, would be finished in 2018 with green

recreational spaces, a pond, and benches maintained by on-site staff as well as maintaining the pitch lawns. The road would be tarmacked with appropriate street lighting and an area for visitors' cars as each pitch only has one allocated car parking space. The Site would be a gated making it a private and secure residential site. She was also informed that the size of home that she could have would be based on the size of the concrete base all of which were already laid.

Applicant

44. The Applicant said that he agreed with the Respondent's recollection of her visit to the Site and purchase of the mobile home. He added that:
- a. The recreation areas on the Site include the pond and green space (photographs provided).
 - b. He did not recall promising the Respondent that he would maintain pitch lawns. He said it is the responsibility of the Respondent to maintain the Pitch, including any garden enjoyed with the Pitch, in a clean and tidy condition in accordance with Implied Term 21(d), Express Term 3(f) and Park Rule 3. (A copy of the Park Rules was provided).
 - c. Pitches can accommodate at least one vehicle. Where space permits, some pitches can accommodate two vehicles. The Respondent's pitch is wide enough to accommodate 2 vehicles.
 - d. He did not recall saying the Site would always be maintained by on-site employees. The Site benefits from on-site park managers who carry out maintenance jobs, however additional off-site maintenance persons are employed when required.

Tribunal's Findings

45. The Tribunal found that the Respondent claims 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.
46. 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.

1. Flooding and Drainage

Respondent

47. The Respondent said that Pitch 95, adjacent to hers, which is Pitch 96, is considerably higher with a sand and grit mortared stonewall separating the two properties which leaches a considerable amount of water and sand across my block drive when it rains. The Respondent submitted that there was insufficient drainage for the retaining wall, she having been told the drainage pipe is too small, broken or incorrectly positioned.
48. The Respondent said that at the opposite end of her property there is also insufficient drainage resulting in flooding across her garden from the corner of plot 9. The Respondent's pitch is on the corner between the Site Road which goes the length of the Site and the Site Road from the Entrance Gate. The Respondent said that water passes down both roads the corner of her pitch being at the confluence. She said the

water passes to the pitches that back onto the stream which flood due to lack of maintenance of the stream.

Applicant

49. The Applicant said that the retaining wall referred to by the Respondent is approximately one foot in height and is located above the Respondent's pitch. The Applicant disputed that the photographs provided showed a considerable amount of water and sand leaching on to the Respondent's driveway when it rains. He said soil and wood chippings occasionally run onto the Respondent's pitch in heavy rainfall and is unavoidable due to the downward slope of the Site. He said this might be frustrating to the Respondent but is not a ground to rebut the presumption.
50. The Applicant said the wall has a 6-inch drainage pipe which is sufficient for the size of the wall. He said the Respondent's pitch, and other pitches on the Site, benefit from an 18-inch stone soakaway and her Home also benefits from guttering down pipes which are the responsibility of the Respondent. The Applicant referred to a letter from Chris Pegler, the Lead Licensing Enforcement Officer for Cherwell District Council dated 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 confirmed compliance with site licence requirements. The letter specifically stated that there was no evidence the Site has inadequate drainage and no evidence of flooding. It was also stated that while there is evidence of surface water during and shortly after long or heavy periods of rain, that water dispersed adequately with any pooled water usually dissipating within 20 to 30 minutes of the rain stopping. (A copy of the letter was provided)
51. The stream running through the Site is checked daily and anything that has fallen in is removed immediately. The stream is also maintained approximately 3 to 4 times a year as part of the regular maintenance of the Site. The stream has only broken its bank once in my ownership of the Site, on 24 September 2024 when the Site experienced a month's rain fall in a 24-hour period, causing flooding in most parts of Oxfordshire. During this period, the stream burst its bank because of this extreme rain fall. This caused some flooding to 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.)

Tribunal's Findings

52. The Tribunal found from its knowledge and experience that stone walls may naturally shed. However, neither the inspection nor the photographs provided indicated that this was excessive in respect of the retaining wall. At the inspection the Tribunal noted the Aco drain which appeared to be of an appropriate size for the driveway. The photographs showed some water pooling on the drive between the retaining wall and the drain but otherwise the water appeared to have dissipated well, draining into the grass and the gravel.
53. The photographs provided showed water running down the road which is on an incline from north to south travels and across it, west to east, as the Site falls naturally towards the stream. It also flows along the short road from the entrance. The Tribunal accepted that this has inundated some of the pitches which back on to

the stream. Although the Respondent's pitch is at the corner of these two roads the flow does not appear to affect the pitch.

54. The Tribunal is aware that the stream has burst its banks and requires regular maintenance to ensure the water flows freely. As and when the stream does overflow this may affect the pitches adjacent to the stream but there is no evidence to show that it affects the Respondent's pitch.

2. Pond, Recreation Area & Hedgerow

Respondent

55. The Respondent said the hedging adjacent to the pond has also been allowed to disintegrate thereby rendering the secure gated access useless. Also, the pond and recreation area were in a terrible state through lack of maintenance (photographs provided). She said that in the summertime the smell can be quite overpowering dependent on the wind direction. 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 (photographs provided).

Applicant

56. The Applicant said that the Respondent has taken photographs at the worst time of the year when the foliage around the pond has died. Reeds, flowers, and water lilies are usually present around the pond. A photograph of the pond taken on 4 March 2025 was provided. The Applicant said the pond receives regular maintenance although the works that can be undertaken are sometimes limited due to wildlife. On 29 May 2024, 29 September 2024 and 18 October 2024, the Applicant said he had instructed a contractor to maintain the pond, including the clearance of debris. He added that the hedgerows contain large branches that are used as natural barriers. As detailed in the letter from Cherwell District Council, in their opinion the Site meets the conditions of the site licence.
57. 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.
58. The septic tank is located underground. The hose and pipes referred to by the Respondent are ventilation pipes which are necessary for air to leave the tank as it fills up with wastewater
59. Regarding the sewage smells the Applicant referred to a letter from Cherwell District Council dated 13 November 2023 confirming that any sewage odours in the area have been assessed as being emitted from the adjacent sewage treatment plant which is on land adjacent to the Site and over which the Applicant has no control.

Tribunal's Findings

60. 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.

61. 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.
62. 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.
63. The Respondent said she was given the impression from the promotional material when she purchased her home 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.
64. 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 the 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.
65. 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. Parking

Respondent

66. The Respondent said that the visitors' parking area is only big enough for 5 cars and has been taken over by Occupiers to park their additional vehicles that cannot be parked by their Home and some are parking on their gardens which should be happening. (Rule 4 Duvall Park Rules).

67. The recent addition of three extra visitor parking places near the pond appears to have been allocated to the adjacent Home which has 3 cars and the Occupiers are under 50 years of age.

Applicant

68. 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. 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.
69. The Applicant acknowledged that there were two new pitches near the visitor parking spaces, however, he said Occupiers 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 Occupiers' additional vehicles and no commercial vehicles are to be parked on the Site.
70. The Applicant said that there was a limit to how much he could 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 referred to Park Rule 4 which provides:
The Park Home shall be used by the occupier and members of his permanent household and bona fide guests only (only in any event for the occupation of such number of persons as shall not exceed the specified number of berths). In view of the limited parking facilities only two car spaces per resident is permitted on the Park. Any resident with more than two motor vehicles must make alternative arrangements for parking outside of the Park, or with the Park Owners. No caravans or trailers to be parked on the park.

Therefore, it is not a breach of the Park Rules for homeowners to park vehicles on their gardens.

71. The Applicant said that the new visitor parking spaces have not been allocated to an adjacent rental Home which has adequate parking space alongside the Home and should not be parking within the visitor parking spaces. The rental Home is occupied by persons over 50 years of age and therefore there is no breach of the Park Rules.

Tribunal's Findings

72. The Tribunal found from its inspection that most 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. Clear signage and the marking of spaces in the visitor car park near the main gate may relieve this problem. 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. The Tribunal accepted that in forming these 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.

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.

4. Problem with concrete base and brick skirt

Respondent

74. The Respondent said that the brick skirt around the base of her Home had begun to sink leaving a noticeable and growing gap at the base since 2018. She said her insurance company arranged for a surveyor to visit who advised firstly the wall had been built without proper footings causing it to sink and subside and secondly that the concrete base to the Home is too small. The Applicant had been informed.

Applicant

75. The Applicant said the Respondent had made him aware that the brick skirt around the base of her mobile home had begun to sink approximately 1 month ago and he had been provided with a copy of the survey report issued by her insurance company. He submitted that while these issues are doubtless distressing for the Respondent, they are not a ground to rebut the presumption in Implied Term 20(A1).

Tribunal's Findings

76. The Tribunal found that the issues regarding the skirt and base of the Respondent's Home are 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 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. The Applicant as the Site Owner has a responsibility for the base and services, it is not something that can be dealt with through the pitch fee review.

Tribunal Decision re Issue 2

77. 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.

78. 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 £185.00 is increased by 4% being an increase of £7.40 which gives a new pitch fee for 96 Duval Park of £192.40 per month to take effect on the Review Date on 1 April 2024.

Summary of Decisions

79. The Tribunal determines the new pitch fee for 96 Duvall Park Homes as £192.40 per month to take effect on the Review Date on 1 April 2024.
80. The total overpayment over the four-year period between 1 April 2018 and 31 March 2024 being £1,830.60 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.