



Neutral Citation Number: [2025] UKUT 44 (LC)

Case No: LC-2024-740

**IN THE UPPER TRIBUNAL (LANDS CHAMBER)
APPEAL AGAINST A DECISION OF THE FIRST-TIER TRIBUNAL PROPERTY
CHAMBER**

FTT Ref: CAM/34UH/PHI/2023/0112, 0114, 0116, 0117, 0119-0123,

7 February 2025

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

***PARK HOMES – PITCH FEES – statutory measure of inflation – level of change in the
index itself not a relevant factor***

BETWEEN:

WYLDECREST PARKS (MANAGEMENT) LIMITED

Appellant

-and-

**MR AND MRS YEOMANS (1)
MRS ABBOT AND MRS TOBIN (2)
MR AND MRS KEW (3)
MR WATTS (4)
MRS OSBORN (5)
MRS MCKENZIE (6)
MRS WEST (7)**

Respondents

**Wilby Park, Main Road, Wilby,
Northants, NH8 2UL**

**Upper Tribunal Judge Elizabeth Cooke
Determination on written representations**

Mr David Sunderland for the appellant

Mrs Lesley West for the respondents

© CROWN COPYRIGHT 2025

The following cases were referred to in this decision:

Teignbridge District Council v Clark [2024] UKUT 279 (LC)

Introduction

1. This is an appeal from a decision of the First-tier Tribunal in its jurisdiction under the Mobile Homes Act 1983 to determine the pitch fee payable for the right to station a mobile home on a protected site. The appeal is brought with the permission of the FTT. As I shall explain, there is now no jurisdiction to decide an appeal, but this short decision is given to address the point of law raised in the grounds.
2. It is not in dispute that Wilby Park is a protected site to which the Mobile Homes Act 1983 applies. The provisions of that Act determine how and to what extent the pitch fee paid by the occupiers can be changed. The relevant provisions are in paragraphs 16 to 20 of Schedule 1, Part 1, Chapter 2 (“the Schedule”). The pitch fee can only be changed by following the procedure set out in paragraph 17 of the Schedule, and then only with either the agreement of the occupier or if the FTT, on an application by the site owner, considers it reasonable for the fee to be changed and makes an order setting the new fee.
3. Paragraph 18 of the Schedule sets out a non-exhaustive list of things to which the FTT is to have “particular regard” in setting the pitch fee, including expenditure by the owner on improving the site since the last review and any deterioration in the condition of the site or reduction in the services provided. Paragraph 20 says this (so far as relevant), in the version in force before 2 July 2023:

“(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 retail 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.”

4. Paragraph 20 was amended by the Mobile Homes (Pitch Fees) Act 2023, section 1(2)(a), with effect from 2 July 2023. The amendment substituted the consumer prices index (the CPI) for the retail prices index (the RPI). The House of Lords Library Briefing on the Bill for the 2023 Act, published on 25 January 2023, said this:

“The Mobile Homes (Pitch Fees) Bill is a short private member’s bill which would change the inflationary measure used during annual pitch fee reviews for mobile homes from the retail prices index (RPI) to the consumer prices index (CPI). CPI is generally lower than RPI, which proponents of the bill say will provide a cost saving to mobile home owners.”

5. The present proceedings arise from an application by the appellant for a determination of the pitch fee for eight pitches at Wilby Park with effect from the review date on 1 April 2023. The pitch fee was not agreed by the occupiers and the appellant therefore applied to the FTT for a determination under paragraph 17.
6. The FTT’s decision was dated 11 April 2024; its decision about one of the eight pitches is not appealed. As to the other seven it said this:

“51. ... we consider that it is reasonable for the pitch fees to be increased, but that the starting point should be in line with CPI over the relevant period. This figure is 10.1%. It was not said, and we are not satisfied that the Applicant’s total relevant costs increased by more than CPI or that there are any other reasons why the relevant pitch fees should be increased above CPI inflation.

52. Accordingly, for a period of unusually high inflation, we consider it unreasonable to increase these pitch fees in line with RPI, which is unreliable and/or (as noted by the ONS in their guidance) tends to overstate inflation.

53. Further and to reflect the loss of amenity and condition of the site described above, the increase should be limited to 80% of the CPI (8.08%) increase over the relevant period.”

7. There is no appeal about the condition of the site, nor from the decision that the increase in the pitch fee should be limited to 80% of the relevant inflationary measure. The sole ground of appeal is that the FTT made an error of law in using the CPI rather than the RPI.
8. The FTT in giving permission to appeal referred to *Teignbridge District Council v Clark* [2024] UKUT 279 (LC), which it regarded as authority for the proposition that the FTT, in determining the level of the pitch fee, may not take into account the circumstances of the individual occupiers. It said that it had not looked at individuals, but had had regard to the very high RPI figure and for that reason departed from the presumption of an increase calculated by reference to the RPI.
9. The FTT misunderstood what was said in *Teignbridge*. That was an appeal from a decision about a pitch fee taking effect on 3 April 2023, on a number of grounds including the FTT’s decision that the high level of the RPI for the relevant date was a factor to be taken into account. It said:

“52. the Tribunal found that the RPI increase (of 13.4%) in that particular year (to December 2022) had been exceptional, and there had been less extreme fluctuations in the years before and after the Review. It was clear that the rise in the cost of living had impacted those living on limited income most severely, and the Tribunal found that this was a factor of significant weight in determining the appropriate pitch fee increase in this case.”

10. The site owner argued that while the FTT is entitled to take into account factors beyond those listed in paragraph 18, the level of increase in the RPI in the relevant period was not one of them and that the FTT had exceeded the bounds of its discretion. The Tribunal agreed and said:

“35. ... The statutory regime uses the RPI (nowadays the CPI) as the basis for the paragraph 20 presumption, and whilst an increase in line with the index is not an entitlement of the site owner the presumption provides an easy, uncontentious and objective method of calculating the increase where nothing unusual has happened in relation to the site. That easy calculation would be made complicated, and dispute would inevitably be provoked, if the level of change in the RPI were a factor that might displace the presumption. If it were such a factor

then a number of other questions would arise: should there, conversely, be a bigger increase in the pitch fee if the change in the RPI is unusually low? If there is an unusually high increase is the presumption displaced for all occupiers, or only for those who can show that they are likely to be in difficulties as a result? How high is "exceptional", as the FTT put it here? That latter question cannot be answered without consideration of economic factors and possibly expert economic evidence, making proceedings disproportionately complex and expensive. I do not believe that it could have been the intention of the legislature that the FTT should have to explore any of these questions or that the parties should be free to argue about them."

11. The FTT's decision in *Teignbridge* was not specific to individual occupiers; it took the view that many park home dwellers might be on low incomes and that therefore the RPI-based increase was inappropriate. That is exactly what it did in the present case and, for the same reasons given in *Teignbridge*, it exceeded the bounds of its discretion. The will of Parliament for a pitch fee review taking effect before 2 July 2023 was that the RPI should be used as a measure of inflation, and the FTT did not have discretion to go behind that.
12. The FTT could have reviewed its decision, under paragraph 55 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 on the basis that the appeal was likely to be successful. As it was, it rightly accepted that its understanding of the decision in *Teignbridge* might be incorrect and gave permission to appeal.
13. Since then the parties have agreed the new pitch fee, at 80% of the RPI-based increase. Whilst the agreement of the parties does not always mean that there is no scope for a determination by the FTT (see for example paragraphs 17 (11) and (12), where agreement is no effect if the prescribed material was not sent to the occupiers with the pitch fee notice) in the present case there is no dispute between the parties and no basis on which an appeal decision can be made. The appeal fails, although had the parties not reached agreement it would have succeeded.

Upper Tribunal Judge Elizabeth Cooke

7 February 2025

Right of appeal

Any party has a right of appeal to the Court of Appeal on any point of law arising from this decision. The right of appeal may be exercised only with permission. An application for permission to appeal to the Court of Appeal must be sent or delivered to the Tribunal so that it is received within 1 month after the date on which this decision is sent to the parties (unless an application for costs is made within 14 days of the decision being sent to the parties, in which case an application for permission to appeal must be made within 1 month of the date on which the Tribunal's decision on costs is sent to the parties). An application for permission to appeal must identify the decision of the Tribunal to which it relates, identify the alleged error or errors of law in the decision, and state the result the party making the application is seeking. If the Tribunal refuses permission to appeal a further application may then be made to the Court of Appeal for permission.