

For publication

Licensing Of Caravan and Mobile Home Parks (H000)

Meeting: Cabinet

Date: 26 July 2016

Cabinet portfolio: Cabinet Member for Housing

Report by: Housing Manager

1.0 Purpose of report

1.1 To inform members of the changes to the licensing regime for Caravan and Mobile Home Parks introduced under the Mobile Homes Act 2013 and to agree the Council's fee policy in relation to the functions delegated to the Council under this Act.

2.0 Recommendations

2.1 That Members note the changes to the licensing and management of Caravan and Mobile Home Parks introduced under the Mobile Homes Act 2013.

2.2 That Members approve the matters to be taken into consideration in determining whether a licensee or site manager is a 'fit and proper person', as detailed in sections 6.11 to 6.14 inclusive of this report.

2.3 That Members approve the fee structure detailed in the Fee Policy attached to this report as **Appendix A** and summarised in section 9.3.

- 2.4 That Members adopt the Model Standards for Caravan Sites in England 2008 (**Appendix B**) as the minimum standards to be applied to the licence conditions.
- 2.5 That responsibility for the variation in the Council's adopted standards for residential Caravan and Mobile Homes Parks, in accordance with changes to the Model Standards, be delegated to the Cabinet Member for Housing.
- 2.6 That responsibility for the authorisation and refusal of licence applications, including renewal, revocation and licence variations be delegated to the Health and Wellbeing Manager and the Private Sector Manager.
- 2.7 That responsibility for the enforcement of licence conditions including the inspection of sites, issuing of Compliance Orders, emergency remedial action and the authorisation of work in default be delegated to the Private Sector Housing Manager.

3.0 Background

- 3.1 The legislation regulating caravan and mobile home sites has not been updated for 50 years. In 2012 a Parliamentary Select Committee Review recognised that the law was outdated and did not provide local authorities with the tools needed to ensure that minimum standards would be met.

Existing Legislation

- 3.2 The licensing of residential caravan and mobile home parks is governed by the Caravan Sites and Control of Development Act 1960.
- 3.3 Under this legislation the local authority was obliged to licence sites which complied with Planning conditions and minimum health and safety standards. The local authority could attach conditions relating to the total number of residential units on the site and their position, and their state of repair, fire safety and the provision of sanitary facilities and other services including power supplies and communal amenities.
- 3.4 There was no provision for the charging of licensing fees and no consideration of the suitability of the licensee or any other person to manage the site. The licensing period was not time limited

leaving many sites with licences which were obsolete and site licence conditions which were outdated and inappropriate.

- 3.5 Enforcement was by way of revocation of the licence. Any requirement to carry out remedial work could only be enforced by application of other statutes e.g. health & safety or public health legislation. The Housing Act 2004 does not apply to mobile homes so the Housing Health and Safety Rating System cannot be used to regulate housing standards in this sector.
- 3.6 From time to time Central Government has issued guidance on the model standards recommended for residential caravan sites. The most recent guidance was issued in 2008, but these standards could only be attached to existing site licences by voluntary agreement with the site owner.
- 3.7 Enforcement of fire safety standards by the Fire Service under the Regulatory Reform (Fire Safety) Order 2005 is restricted to access and the communal areas of a site. Regulation of all fire safety issues relating to individual plots, the distance between mobile homes, rests with the local authority.

4.0 Summary of Changes Introduced by the Mobile Homes Act 2013 (the Act).

Scope of the new Legislation

- 4.1 The new legislation came into force on 1 April 2014 and only applies to sites used for human habitation all the year round. Sites used for seasonal activities which are not open all year e.g. holiday caravan sites, and sites occupied only by the site owner are exempt from the legislation. Sites occupied by seasonal workers employed by the land owner are also generally exempt. Mixed sites i.e. some permanent residents and some holiday lets are not exempt.
- 4.2 The Act
- gives local authorities the power to charge fees for licence applications, amendments and variations and transfer of title: and
 - the power to charge an annual licence fee reflecting the cost to the local authority of administering the licence (including site inspection);

- the power to refuse to grant a site licence where it considers the applicant is unsuitable to hold a licence
- the power to vary the licence conditions on existing sites where it is felt these conditions are no longer adequate or are obsolete. The local authority does not have to obtain the consent of the site owner and occupiers to do this, but consultation prior to any changes is recommended. The changes must be justifiable and proportionate

4.3 The local authority must adopt and publish a Fee Policy (see **Appendix A**) and maintain a register of the site rules deposited by site owners.

4.4 The Act also

- Introduces a 'fit and proper person test' for 'the occupier' (who will normally be the site owner) or their appointed site manager. 'Fit and proper' is not currently defined in the legislation but regulations may be issued at a later date.
- Allows the local authority to enforce site conditions through the service of Compliance Notices' requiring the site owner to carry out work or improvements within a specified period of time, and the power to carry out work in default, as well as prosecuting the park owner for non-compliance.
- Gives the local authority the power to charge for the preparation of Compliance Notices and secure any unpaid charges against the site as a land charge.
- Gives the local authority power to take emergency action where the licensee has failed to comply with the licence conditions and there is an imminent risk of serious harm to the health and safety of any person who is or may be on the land.
- Allows the local authority to apply to the Court to have a site licence revoked where the occupier is convicted of at least three offences for failure to comply with a Compliance Notice.
- Introduces a requirement for the site owner to deposit a copy of the Park Rules with the local authority, and to notify the local authority of any variation or revocation of site rules. The local

authority must maintain a public register of the rules deposited and can charge for this.

Other Changes

4.5 The Act also introduces measures intended to address contractual issues between individual mobile home owners and site owners.

4.6 The main changes are;

- new arrangements for the gifting and sale of mobile homes by their owner and the site owners right to object. The new procedures are set out in the Act and are designed to tackle the issue of 'sale blocking' by some park owners, where occupiers were effectively being prevented from selling their homes. The new measures will be administered and regulated by the Residential Property Tribunal.
- amendments to the implied terms relating to review of annual pitch fees.
- new regulations regarding the drawing up of Park Rules.

Regulation of pitch fee reviews and the drawing up of site rules is by way of Appeal to the Residential Property Tribunal.

5.0 Current Arrangements

5.1 There are two licensed Mobile Home Parks within the borough, both located in relatively rural locations. The smaller site is has 32 pitches; the larger by has up to 81 units, as the owner is in the process of remodelling. The majority of households on both sites are owner occupiers who own their mobile unit but pay pitch fees to the site owner. The majority of residents are elderly.

5.2 Generally the sites are well run and it has not been necessary to consider any kind of enforcement activity over the last five years. Officers have visited the sites on numerous occasions in response to both site owner and residents' enquiries.

5.3 Both sites have been subject to joint formal inspection by Officers from the Council's Private Sector Housing team and with members of Derbyshire Fire & Rescue Service and the owners have co-operated with the Council with regard to the provision of relevant

certification and any matters requiring attention. The owner of the larger site is in the process of replacing the oldest units with new units and carrying out pitch remodelling and improvements at the same time.

- 5.4 The smaller site has a licence which is old and out of date and does not reflect current conditions. The changes in legislation offer an opportunity to bring this licence up to date.

6.0 Changes Proposed

Licence Applications

- 6.1 Licence Applications must be accompanied by the following:

- Completed Licence Application form
- Licence application fee (see below)
- Site Plan to scale showing number and location of pitches, details of services and power supplies, road layout, provision for parking and communal amenities including telephone points and provision of fire safety equipment, LPG store (if any).

- 6.2 Before the licence can be issued the following documents will also be required:

- Proof of Planning Permission for the development and compliance with any conditions of Planning Consent
- Fire Safety Risk Assessment and Action Plan
- Electrical Installation certificate for the entire electrical systems to the site, including lighting provided by and/or under the control of the site owner and/or manager
- Gas Safety Certificate
- Confirmation of any proposals for improvements and refurbishment to bring the site up to an acceptable standard, where required. This may include proof that the necessary finance is in place to fund the proposed work.
- Any other documentation reasonably required to demonstrate compliance with statutory regulations applicable to the site and any equipment or facility provided by the site owner or manager.
- Proof that the licence holder has the resources necessary to manage the site effectively. Where the licence holder is not the freeholder, proof that the licence holder will have the freedom,

resources and authority to manage the site effectively and comply with statutory requirements

- Site Rules to be drawn up and registered with the local authority in accordance with statutory requirements.

The local authority may take into account any other matter it feels is relevant to the determination of a licence application, including whether to refuse or revoke a licence

Licence Conditions

- 6.3 The licence will specify the maximum number of units of caravans and mobile homes that may be placed on the site. Double units which offer two units of accommodation e.g. similar to two semi-detached houses will count as two units for licensing purposes.
- 6.4 Under section 5(6) of the Caravan Sites and Control of Development Act 1960 (the Act) the Secretary of State may from time to time specify model standards with respect to the lay-out and the provision of facilities, services and equipment for caravan sites or particular types of caravan site. In deciding what (if any) conditions to attach to a site licence, the Council must have regard to any standards so specified.
- 6.5 It is proposed that the site conditions will include a general requirement to comply with Model Standards for Caravan Sites in England 2008, which were introduced under part 5 of the Caravan Sites and Control of Development Act 1960.
- 6.6 Any conditions specific to the site may be included in the Licence conditions.
- 6.7 The site owner must notify the Council of any changes which constitute a variation to the existing licence.
- 6.8 The following documents must be provided annually
 - Updated Fire Safety Risk Assessment and Action Plan
 - Up to date Site Plan to scale (or written confirmation that there have been no changes)
 - Annual Gas Safety Certificate for any gas appliances and supply provided by the site owner or manager.
 - Annual certification for safety equipment provided by the site owner or manager e.g. fire extinguishers and hoses provided

- Any other documentation which must be provided in accordance with the site licence conditions and/or statutory requirements.

6.9 Electrical Installation Test and Inspection certificates for the electric supply and fittings to the communal areas, including supply connection points to individual caravans, will be required in accordance with the recommendations on the last test schedule or every 5 years – whichever is the sooner.

Site Rules

6.10 Licence conditions are not the same as Site Rules. Site Rules are the rules laid down for the site by the owner and will include matters not covered by a licence e.g. contractual matters relating to the sale or transfer of residential units, rules about pets, use of any communal facilities and payment of pitch fees and/or rent. These are determined by the site owner in accordance with statutory regulations. Occupiers have the right to be consulted about site rules and their right of redress is by way of appeal to the Residential Property Tribunal.

Suitability of Licensee and Site Manager

6.11 The local authority now has the power to refuse to grant a site licence where it considers that the applicant is unsuitable to hold a licence. There is currently no guidance on what factors the local authority can apply when making this decision although regulations may be issued in the future.

6.12 In the absence of statutory guidance on this matter Members are asked to approve adoption of the following criteria considered to be indications that a person will not be a fit and proper person to manage a Caravan and Mobile Home Park:-

- whether the proposed licence holder or manager has any previous convictions relating to violence, sexual offences, drugs and fraud
- whether the proposed licence holder or manager has been convicted of any offences relating to failure to comply with licence conditions issues with regard to this or other sites
- whether the person has been found guilty of unlawful discrimination

- whether the person has a history of bad management and/or non compliance with statutory requirements at this or other sites.
- where mobile units are also available for rent, any history of contraventions of Landlord/Tenant law and poor residential property management will also be taken into consideration.
- The proposed licence holder as a history of bankruptcy and/or breaches of health and safety law.

Should any of these criteria apply the facts of the case will be considered in more detail before a licence application determination is made.

6.13 The 'fit and proper' test will be based on self-declaration by the applicant and Council enquiry. Criminal Record Bureau checks would not be required routinely. However if a suspicion of relevant criminal activity arises the Council may make further investigations and require the applicant to supply a current satisfactory Criminal Records Bureau Disclosure.

6.14 Licensee's / Site Owners may appeal to the Residential Property Tribunal if the Council decides to refuse, vary or transfer a licence. They may also appeal against licence conditions.

7.0 Enforcement

7.1 It is an offence if the landlord or person in control of the property:

- fails to apply for a licence for a licensable property or
- allows a property to be occupied by more people than are permitted under the licence.
- Wilfully obstructs an officer carrying out his duties from entering land authorised by a warrant

7.2 All of the above, except the offence of obstruction carry a maximum fine of up to £5,000 (*Level 5*) upon conviction in a magistrate's court. The maximum fine on conviction of obstruction is £2,500 (*Level 4*).

Enforcement of Site Conditions

- 7.3 The local authority can enforce site licence conditions by the service of a Compliance Notice which specifies the time periods within which any remedial action must be taken.
- 7.4 The local authority may charge for the service of a compliance notice and the fee is secured as a local land charge until paid. The charge must reflect the cost of service of the Notice. There must not be a double charge for officer time where site inspection is already subject to an annual licence inspection fee.
- 7.5 Where the site is owned by a company the local authority may also prosecute the directors and any other relevant person who can be shown to have contributed to the offence through connivance or neglect.
- 7.6 Failure to comply with a Compliance Notice is a summary offence subject to a maximum fine of up to £5,000 (*Level 5*) upon conviction in a magistrate's court.
- 7.7 Where the site owner fails to comply, the Council may also take action to remedy the defects specified on the Compliance Notice and recover the cost of work from the owner.
- 7.8 The power to apply to the court to revoke a licence remains and failure to pay the annual licence fee may also ultimately lead to the site licence being revoked.

Emergency Remedial Action

- 7.9 The Council may carry out urgent remedial action to address breaches of site conditions which constitute an immediate threat to the health & safety of any person who may be on the land. The site owner must be notified of the intention to take action before the Council enters the land and a further Notice must be served within 7 days of the start of remedial action; the Notice detailing the hazard, the emergency action taken, when the action will be completed and detailing the site owner's right of Appeal.
- 7.10 The Council may recover the cost of taking emergency remedial action from the site owner, including the cost of serving Notice and legal advice. The demand for payment must be served within two months of completing the work.

8.0 Human resources/people management implications

8.1 All administration and enforcement of legislation in connection with mobile homes licensing will be carried out within the existing resources of the Private Sector Housing Team. A restructure of this team has recently taken place which has taken account of the teams duties in relation to the licensing of residential caravan and mobile home sites.

9.0 Financial implications

9.1 These duties will be delivered within the existing General Fund Account. The core staff time associated with the processing and issuing of a licence and the enforcement of standards is covered by the licence fee. Wider work responding to tenant and landlord enquiries are part of the wider duties of the team.

Licence Fees

9.2 The Local Authority must set out the fees it intends to charge in a published Fees Policy (**see Appendix A**). Fees vary from Authority to Authority and are intended to reflect only the costs of administering the issue of the licences. The Local Authority must not make a profit from the fees charges and is expected review and adjust the fees annually to reflect real costs.

9.3 A summary of the proposed charges is detailed below

| Caravan & Mobile Homes Park Licence | Fee per application |
|--|--|
| Application for a new licence | £304 plus £4.22 per unit of accommodation |
| Application (by the current licence holder) to Amend or Vary an Existing licence | £126 where no site inspections required £177 where site inspection required |
| Application to transfer an existing licence to a new site owner or manager | £125 where no site inspections required £179 where site inspection required |
| Annual Licence fee – full charge (includes site inspection) | £194 plus £4.22 per unit |
| Annual Licence fee – reduced | A 50% discount applies where |

| | |
|--|--|
| | <p>the licence holder fulfils all of the following conditions:-</p> <p>a. the licence holder supplies all requisite documentation 14 days ahead of the proposed inspection date <u>and</u></p> <p>b. no Compliance notices have been served within the last three consecutive years, <u>and</u></p> <p>c. the fee is paid within 28 days of receipt of Council invoice</p> |
| Fee to Deposit/Vary or Delete Site Rules | £37 |
| Compliance Notices | Charge will be based on the officer time including overheads, and any other eligible expenses incurred e.g. legal expenses. This will be calculated on a case by case basis. |
| Emergency Remedial Work | Charges will be in accordance with statutory provision –cost of expenses incurred plus officer time including overheads, Interest may be charged |
| Work in Default | Recovery of costs incurred including Council’s administration fees |

9.4 The fees set out in Chesterfield Council’s Fee Policy have been calculated in accordance with the good practice guidance issued by local government officer working groups and are based on an itemised breakdown of costs for each licence function and Council costs for officer time including on costs.

9.5 The licence application and annual inspection fees allow for a base charge with additional charges per unit to reflect the increase in time required to inspect larger sites. Fees for varying, amending and transferring licences distinguish between those changes which do not require a site visit and those which do. Licence transfer to a new Licence Holder will involve ‘fit and proper person’ enquiries even if a site visit is not required.

9.6 To recognise good practice and encourage prompt payment of annual licence fees a 50% discount is proposed subject to the conditions summarised in the Table in para 9.3 above.

Compliance Notice Fees

9.7 As the amount of work involved in the preparation of Compliance Notices will vary the charge will be based on the officer time (including overheads) and any other eligible expenses incurred. This will be calculated on a case by case basis.

10.0 Legal and data protection implications

10.1 Local authorities are required to maintain a register of mobile home site licences and maintain and publish a register of site rules deposited with it.

11.0 Consultation

11.1 No external consultation is required

12.0 Risk Management

| Description of Risk | Impact | Likelihood | Mitigating Action | Impact | Likelihood |
|---|---|------------|---|--------|------------|
| Site Owner objects to annual licence fee and decides to close down site | High for the occupiers of the mobile homes if the site was closed | L | Contractually it would be difficult for the site owner to shut down the site as the majority or plot residents are owner occupiers Both sites are well established and owners have already invested in their ongoing maintenance. The fees are reasonable and proportionate and there is a 50% discount for complaint owners. The annual charge must reflect real costs incurred by the Council and where appropriate any over charge must be reimbursed. | L | L |

12.1 Because the local authority can charge fees for these core functions the risk to the Council is low.

13.0 Equalities Impact Assessment (EIA)

13.1 The implementation of the new legislation and the adoption of the Fees Policy will not discriminate against any residents within the borough (see full EIA at **Appendix C**).

13.2 Both existing mobile home sites in Chesterfield are predominantly occupied by people over 55 years of age, many of whom are retired, and some of whom have impaired mobility or chronic health conditions. All mobile home owners will benefit from the protections introduced under the Act but because a high percentage of elderly people live on these sites, they will benefit disproportionately

13.3 The only fee which the site owner may pass on to the site occupiers is the application fee for a new licence. It is not anticipated that either of the existing site owners will need to make this type of application for their existing sites

14.0 Alternative options and reasons for rejection

14.1 The implementation of the Mobile Homes Act 2013 is a statutory duty to be implemented in accordance with good practice performance requirements. The local authority would be open to complaint, judicial review and criticism by the Local Authority Ombudsman if it did not carry out its statutory functions.

14.2 The Fees Policy is determined by the matters which the local authority may charge for as set out in the legislation. Although the local authority may exercise discretion in reducing or not charging fees the principle that the baseline fees charged cover the local authority's core costs for each activity is appropriate. The fees will be reviewed every year and adjusted to reflect changes in costs.

15.0 Recommendations

15.1 That Members note the changes to the licensing and management of Caravan and Mobile Home Parks introduced under the Mobile Homes Act 2013.

- 15.2 That Members approve the matters to be taken into consideration in determining whether a licensee or site manager is a 'fit and proper person', as detailed in sections 6.11 to 6.14 inclusive of this report
- 15.3 That Members approve the fee structure detailed in the Fee Policy attached to this report as **Appendix A** and summarised in section 9.3.
- 15.4 That Members adopt the Model Standards for Caravan Sites in England 2008 (**Appendix B**) as the minimum standards to be applied to the licence conditions.
- 15.5 That responsibility for the variation in the Council's adopted standards for residential Caravan and Mobile Homes Parks, in accordance with changes to the Model Standards, be delegated to the Cabinet Member for Housing.
- 15.6 That responsibility for the authorisation and refusal of licences, including renewal, revocation and licence variations and licence conditions and undertakings attached be delegated to the Health and Wellbeing Manager and the Private Sector Manager.
- 15.7 That responsibility for the enforcement of licence conditions, including the inspection of sites, issuing of Compliance Orders, emergency remedial action and the authorisation of work in default be delegated to the Private Sector Housing Manager.

16.0 Reasons for recommendations

- 16.1 The powers and resources now available to the local authority will enable it to take appropriate action to monitor and enforce reasonable minimum standards on Mobile Homes Sites. It will provide vulnerable occupiers, many of whom are elderly, with regulatory protection against the worst practices of unscrupulous site owners.

Decision information

| | |
|---|--|
| Key decision number | 652 |
| Wards affected | ALL |
| Links to Council Plan priorities | <p>Priority 4: to improve the quality of life for local people</p> <p>Objective: To increase the supply and quality of housing in Chesterfield Borough to meet current and future needs</p> <p>Aims: Improve the quality and management of privately owned properties through investigation, assistance and active regulation where necessary.</p> |

Document information

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|--|---|
| Report author | Contact number/email |
| Jane Thomas | Ext 5708 jane.thomas@chesterfield.gov.uk |
| Background documents | |
| These are unpublished works which have been relied on to a material extent when the report was prepared. | |
| <i>This must be made available to the public for up to 4 years.</i> | |
| Appendices to the report | |
| Appendix A/A1 | Fee Policy/Fee Calculations |
| Appendix B | Model Standards |
| Appendix C | Equality Impact Assessment |