

## For publication

### Mobile Homes Licensing and Fit and Proper Person Policy 2022

<b>Meeting:</b>	Cabinet
<b>Date:</b>	19 July 2022
<b>Cabinet portfolio:</b>	Housing
<b>Directorate:</b>	Housing
<b>For publication</b>	

#### 1.0 Purpose of the report

- 1.1 To consider and approve the revised Park Homes Licensing and Fit and Proper Person policy, which includes the introduction of the fit and proper person test for owners/managers of permanent residential caravan sites under the Mobile Homes Act 2013 and to approve the proposed associated fees.

#### 2.0 Recommendations

- 2.1 For Cabinet to note the new statutory powers local authorities, have under The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.
- 2.2 That Cabinet approves the revised Private Sector Housing Park Licensing and Fit and Proper Person policy.
- 2.3 That Cabinet approves delegated authority for the Service Director – Housing, in consultation with the Cabinet member for Housing, to agree minor policy adjustments in between review periods.

#### 3.0 Reason for recommendations

- 3.1 To ensure compliance with The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

#### 4.0 Report details

- 4.1 The Caravan Sites and Control of Development Act 1960 (CSCD1960) introduced a licensing system to regulate the establishment and operation of caravan sites. The definition of caravan in this context includes mobile park

homes. The licensing system, required Local Authorities to regulate the establishment and operation of caravan sites but the Local Authority could not levy a fee. This legislation has been amended by the Mobile Homes Act 2013 (the 2013 Act) which aims to raise standards in the industry and provide for more effective enforcement when site licence holders fail to comply with their licence obligations.

- 4.2 Licences issued under the 1960 Act still remain in force, but local authorities were able to charge fees for functions relating to “relevant protected sites”, but must publish a Fees Policy if they wished to charge fees. Accordingly Chesterfield Borough Council approved a Mobile Homes Licensing Fees Policy In 2016.
- 4.3 The Mobile Homes Act 2013 defines a “relevant protected site” as a permanent residential caravan (mobile home) site which requires a licence, but which is not exempt on the basis of being solely for holiday purposes or incapable of being used all year round.
- 4.4 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Regulations”) introduced a Fit and Proper Person test for mobile home site owners or the person appointed to manage the site, unless exempted by the Regulations. The Regulations apply to all relevant protected sites other than non-commercial family-occupied sites. These include both “residential parks”, which are used exclusively residentially, and “mixed use parks”, which are used for both residential and holiday purposes.
- 4.5 The updated policy and fee structure attached at Appendix 1, will enable the Council to implement the new regulations and enable site owners, or the person appointed to manage the site, to make their applications to be included on the register of fit and proper persons.

The purpose of the fit and proper test is to protect residents living in protected sites park homes from rogue site owners, poor maintenance and mismanagement of sites.

#### **4.6 What is a fit and proper person?**

The applicant (owner or manager) wishing to be included on the register will have to show that there are suitable financial and management arrangements in place for the site. They must provide information relating to their conduct in relation to any of the following:

- Offences relating to fraud, dishonesty, violence, arson or drugs or listed in schedule 3 of the Sexual Offences Act 2003.
- Contraventions of law in relation to: housing, caravan sites, mobile homes, public health, planning or environmental health or landlord and tenant law.
- Contraventions of law in relation to the Equality Act 2010, or in connection with the carrying out of any business.

- Harassment of any person in connection with the carrying out of any business.
- Insolvency within the last 10 years.
- Disqualification from acting as a company director within the last 10 years.
- Has the right to work in the UK.

4.7 The applicant seeking entry on the register will need a basic DBS certificate (dated no more than 6 months before the date of the application). This must be included with the application. The DBS certificate must be from an approved supplier. Information about how to arrange a DBS check can be found on the Government's website. The applicant will carry the cost of the application and pay the Council the published fee.

4.8 What is the cost of the fit and proper person test?  
The cost of the Fit and Proper Person test must be cost neutral for the Council. Applying for inclusion on the register carries an application fee of £392.73 for the 2022/23 period..

#### **4.9 How is the fit and proper person determined?**

The Private Sector Housing Team will determine the application within a reasonable time and notify the applicant in writing. We must approve the application unconditional; approve with conditions; appoint a manager; serve a notice of action or revoke a licence.

#### **4.10 How will the register be published?**

The register must be published on Chesterfield Borough Council's website. The register must be set out in a standard format as required under the regulations. A copy must be available to any person on request. This will be emailed or posted as an Excel spreadsheet. The register will be published following Cabinet Approval.

#### **5.0 Alternative options**

5.1 To not approve the recommendation to adopt the Park Home Licensing and Fit and Proper Person Policy, is not an option as the licensing of Park Home Sites is a legal duty placed upon local authorities.

5.2 Additionally this will undermine the Councils efforts to tackle rogue site owners/operators operating within the borough and may also mean vulnerable Park Home residents may remain occupying a site managed by a site owner who may be "unfit" to manage, placing them at greater risk of exploitation and health and safety risks arising on site.

#### **6.0 Implications for consideration – Financial and value for money**

- 6.1 The Council intend to charge a fee for licensing and fit and proper person assessment. Any fee income received should offset officer costs in relation to the licensing function. The Council cannot profit from any part of the licensing process.
- 6.2 Enforcement of the policies may have cost implications in relation to Private Sector Housing officer time and Legal services in relation to support provided for any legal action the team may take as a result of the policies.

## **7.0 Implications for consideration – Legal**

- 7.1 There are Criminal offences set out for contravening Regulations 6 (2) (b); 8 (1); 12 (a) & (b), any relevant person in contravention of these regulations may be liable to a summary prosecution and a consequent unlimited fine.
- 7.2 It should be noted that any relevant person on whom a Final Decision Notice is served by the Local Authority under Regulations 6 (1) and 8 (1) and (2) can be appealed to the First Tier Tribunal as set out in Paragraph 9 of Schedule 4 of the regulations.
- 7.3 There is no compensation payable by a Local Authority.

## **8.0 Implications for consideration – Human resources**

- 8.1 The implementation of the revised Park Home Licensing and Fit and Proper Person Policy will be met within existing resources.

## **9.0 Implications for consideration – Council plan**

- 9.1 The Park Homes Licensing and Fit and Proper Person Policy, is an essential policy to ensure that site operators are fit to manage and ensure site residents are able to reside in a safe environment.
- 9.2 The policy will be instrumental in delivering the following Council Plan objectives:
- i. Improving quality of life for local people
  - ii. Identify and reduce the number of poor quality, private sector houses

## **10.0 Implications for consideration – Climate change**

- 10.1 An initial climate change assessment was completed and no direct impacts were identified.

## **11.0 Implications for consideration – Equality and diversity**

Initial equalities impact assessment has been carried out on the Park Homes Licensing and Fit and Proper Person Policy and no negative impacts on protected groups have been identified. ,

## 12.0 Implications for consideration – Risk management

### 12.1

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Increased enforcement of Private Sector Housing could reduce available private sector housing stock within the borough.	L	L	The 2019 Stock Condition Survey highlighted that there were already 8956 homes in the private sector that failed to meet the decency standard. whilst the majority of landlords do comply with new regulations, it is acknowledged that a minority will not, which may on a short term basis reduce the pool of privately rented properties. The PSH Teams priority is to ensure compliance through education. Enforcement is only used as a last resort and only in relation to the worst housing stock in the borough.	L	L

#### Decision information

<b>Key decision number</b>	1111
<b>Wards affected</b>	All Wards

#### Document information

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<b>Appendices to the report</b>	
Appendix 1	Park Homes Licensing and Fit and Proper Person Policy