

## REPORT TO CABINET

<b>Open</b>		Would any decisions proposed :		
<b>Any especially affected Wards</b>	Mandatory/ Operational	Be entirely within Cabinet powers to decide	No	
		Need to be recommendations to Council	Yes	
		Is it a Key Decision	No	
Lead Member: Adrian Lawrence E-mail: cllr.adrian.lawrence@west-norfolk.gov.uk		Other cabinet Members consulted: N/A		
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Lead Officer: Gordon Jackson-Hopps E-mail: gordon.jackson-hopps@west-norfolk.gov.uk Direct Dial: 01553 616301		Other Officers consulted: Management Team, Internal Colleagues including Legal Services		
Financial Implications	Policy/Personnel Implications	Statutory Implications	Equality Impact Assessment	Risk Management Implications
YES	NO	NO	YES If YES: Pre-screening	NO

Date of meeting: 6 October 2015

### RESIDENTIAL CARAVAN SITE LICENSING

#### Summary

There have been some legislative changes in the last 2 years in relation to the regulation of residential caravans and park homes. These include the ability of the Council to charge fees for site licensing and taking action in the case of poor standards on sites. Importantly the Council now also has to consider the proposed arrangements for the management and maintenance of sites in respect to new site licence applications, or transfer applications. In relation to park homes, there are also changes in respect of pitch fees, sales and site rules.

A report to Cabinet in June 2014 identified the issues and approved public consultation in relation to the changes and including proposed revised residential caravan site licence conditions.

This report brings forward the results of the consultation, the proposed amended residential caravan site licence conditions and a proposed fees policy.

#### Recommendations

1. Members note the report and endorse the approach to dealing with, and enforcement associated with residential caravan sites.
2. Members approve the amendments to the standard residential caravan site licence conditions.
3. Members approve the adoption of the proposed Fees Policy with annual fees commencing in April 2016.
4. It is proposed that the Chief Executive, in consultation with the Portfolio Holder with responsibility for housing be given delegated authority to make minor amendments to the standard conditions to ensure it complies with legislative requirements, Government Guidance and caselaw.

#### Reason for Decisions

To ensure residential caravan site licence conditions are updated, appropriately enforced and to ensure that the licensing function is appropriately funded.

## **1.0 Background**

- 1.1 Any person wishing to place one or more caravans on land for residential purposes requires planning permission to do so. Through the planning process, conditions can be imposed to control the use and occupation of the site. Once planning permission has been granted, the relevant person, i.e. the land owner, needs to apply for a residential caravan site licence. This forms a part of the regulatory framework for residential caravans.
- 1.2 There are however exemptions from licensing under the Caravan Sites and Control of Development Act 1960 (as amended) and they are;
- The use of land within the curtilage of a dwelling house if the use is incidental to the enjoyment of the dwelling (parking an unused caravan in the driveway would be exempt, having a separate household living there would not be)
  - A single caravan sited for not more than 28 days in any 12 months
  - Up to three caravans on a site of not less than 5 acres for a maximum 28 days in any 12 months
  - The use of land by an exempt organisation
  - The use of agricultural/forestry land to accommodate seasonal workers (so long as the units are not occupied all year round)
  - The use of land for travelling show-people
  - The use of land owned and/or occupied by the authority or county council (including gypsy and traveller sites)

### **Summary**

- 1.3 The key changes set out in this report can summarised as follows:-
- The conditions relating to the provision of fire safety for rented caravans will be bolstered as those used for rental purposes present the highest risk.
  - A new requirement that all caravans used for rental purposes conform to British Standard BS3632. This requirement goes further than 'model' standards developed by government but is considered appropriate to ensure that caravans used for 'all year round' occupation are designed for such.
  - The Council will now take into consideration how appropriate the management and maintenance arrangements of a site are in determining a licence or a licence transfer application.
  - There will be a fee regime introduced to enable the cost incurred in the activities connected with licencing to be recovered.
- 1.4 The Council will approach the licencing of residential caravans in a transparent and consistent way, with available resources being utilised within a risk based framework. In respecting the renting of residential caravans as a legitimate business operation the Council will have a primary objective in relation to the health, safety and well-being of those occupying caravans.

## **2.0 Consultation**

- 2.1 Consultation took place in 2014/15. This was aimed at statutory partners as well as caravan/site owners and occupiers including the Gypsy, Roma and Traveller (GRT) community.
- 2.2 Consultations took place through the Council's website, promotion via press

releases and advising site owners and occupiers by letter and through meeting and drop in sessions.

2.3 We received comments from site owners, occupiers, statutory bodies and internal departments the outcomes of the consultation are detailed in Appendix A.

2.4 A number of changes have been made to the proposed conditions covering matters such as flood risk, separation distances and boundary issues. In this respect the consultation exercise proved valuable.

### **3.0 Site Licence Conditions**

3.1 As it is the conditions within the licence that are created to protect the occupants, it is important that the conditions cover aspects of health, safety and welfare of the residents, as well as the amenity of the sites.

3.2 There is a huge variation in the quality and standard of site condition and therefore it is essential that there are appropriate and robust measures in place to deal appropriately and efficiently with residential caravan site standards across the Borough.

3.3 There are conditions attached to licences based on standards developed by Government. In addition further conditions are deemed appropriate to reflect local circumstances, such as those conditions relating to the rental of caravans for permanent residential use.

3.4 At present there are two forms of licence conditions adopted by the Council;

- Multi-occupancy site, with many pitches where the people living there are separate households e.g. park home sites,
- Single occupancy site, normally with fewer pitches where people are related to each other e.g. Gypsy, Roma and Traveller (GRT) families

3.5 Local authorities cannot enforce (or impose) site licence conditions in respect of the fabric of the mobile home itself. Generally a mobile home is the property of the home owner and on multi-sites completely outside the control of the site operator and the scope of the site licence conditions.

3.6 Following a review of the scale and nature of the residential caravan sector within the Borough, and in conjunction with the implementation of a number of elements of the Mobile Homes Act 2013, a review of the residential site licence conditions has been undertaken. Following this review it is proposed that a number of existing conditions be amended/added. A copy of the conditions for comparison are contained within Appendix B of this report. The changes are highlighted for ease of reference. The proposed changes are primarily concerned with improving the safety of caravan residents, particularly those residing in rented accommodation.

3.7 The principle changes within the amended standard conditions relate to the standard of caravan deemed suitable for letting by landlords and the requirement for the provision fire safety equipment. The approach to fire safety measures has also been amended to reflect discussions with the local fire and rescue authority.

3.8 One key element of the amended conditions is the requirement for caravans to

meet the British Standard BS3632. This introduces a new standard to ensure that caravans which are let for residential purposes are designed for 'year round' occupation as opposed to seasonal occupation i.e. holiday type caravans. This approach is new and falls outside the scope of those standard conditions developed by Government. The justification for this amendment is to address locally identified issues relating to people living in caravans not designed for year round occupation.

- 3.9 It is proposed that any new relevant conditions would be applied to the site licence's of existing sites only where it is appropriate. It is recommended that there should not be a blanket updating of all residential caravan site licence conditions as this could be unnecessarily burdensome.
- 3.10 Any new site licence application conditions would be based upon the new standard conditions, which may be varied to suit individual circumstances.

#### **4.0 Legacy Issues**

- 4.1 Following several recent caravan site inspections it is apparent that a number of caravans are being let by site owners/landlords. These inspections have given rise to concerns regarding the standard and quality of accommodation as well as concerns regarding fire safety.
- 4.2 At present site identification and inspection is focused on those sites where caravans are being let for residential purposes. Single family owned and occupied sites are considered to be less of a risk and therefore identification and inspection of these sites is a lower priority.
- 4.3 As a result of correspondence regarding the consultation a large number of sites, both commercial and family owned and occupied have come forward for licensing. Again, the priority remains those sites where caravans are being let for residential purposes.
- 4.4 BCKLWN have recently conducted reviews and determined there are a number of residential caravan sites, many of them single family sites, which either have not been licensed and/or have not been given planning permission and hence have not been subject to any licensing regime.
- 4.5 In applying and enforcing residential caravan site licensing, the Council will have regard to the history of a site and consider each case on it's individual circumstances including having regard to situations where there is not a significant risk of harm. This is particularly valid in the circumstances where the breach has existed for many years and where a breach of the site licence condition is only impacting on an individual home owner.
- 4.6 The Government has stated that it does not expect Councils should rush to serve compliance notices on site operators for breaches where there is not significant harm to persons or property, to enable all to move forward in a constructive and positive way.

#### **5.0 The Council's role in applying and enforcing residential site licensing conditions**

- 5.1 In the developing, applying and enforcement of residential caravan site licence conditions the Council's priority is to be open, transparent, and consistent with the aim of protecting the health, safety and well being of residents.
- 5.2 All compliance and enforcement will be reasonable and proportionate in accordance with the Council's Corporate Enforcement Policy.

- 5.3 In keeping with Government guidance, the Council will focus their priorities on poorly managed, badly run sites with a risk based approach to enforcement.
- 5.4 The Council will consider the financial implications associated with compliance with site licence conditions, specifically those relating to the standard of accommodation, and will seek to agree appropriate timescales for compliance with owners, operators and landlords.
- 5.5 Where possible, an informal approach to enforcement will be adopted in the first instance and formal enforcement action will be based upon appropriate legislation.

## **6.0 New processes and considerations for granting or transferring site licences**

- 6.1 Changes to the law mean that the Council will need to consider how appropriate the management and maintenance arrangements for caravan sites are before granting a new/or transferring a site licence.
- 6.2 This includes consideration as to how the obligations and costs associated with operating a site are going to be met.

## **7.0 Fees Policy**

- 7.1 Currently the Council makes no charges for the costs it incurs for activities associated with residential caravan site licensing.
- 7.2 The Mobile Homes Act 2013 allows the councils to charge fees to meet their costs. A charge now could be applied for new applications and transferring a licence, as well as an annual charge for administering and monitoring sites.
- 7.3 In summary from the 1<sup>st</sup> April 2014 the Council has the ability to charge fees for;
  - a) considering applications for the issue or transfer of a site licence
  - b) considering applications for altering conditions in a site licence
  - c) administration and monitoring of site licences
- 7.4 In assessing annual fees the Council will need to consider its overall costs in respect to their licensing functions and/or base such fees on a 'typical site'. There are a number of different options available in setting a fee structure, such as banding by risk or size or a flat rate charge, it is also important not to target individual sites because they require greater action in terms of enforcement. Likewise the cost of enforcement action cannot in law be reflected in the fee structure adopted by the Council.
- 7.5 Similarly fees for consideration of applications for the grant or transfer of a site licence should be fair and transparent. Anyone seeking a licence must know what they are going to be charged for consideration of the application.
- 7.6 The proposed fee structure contained within the Fees Policy in Appendix C recommends a fee structure based upon the size of the site. The rationale for this is that the cost to the Council in terms of officer time and administration is generally proportional to the number of units on each site. Sites are banded according to the number of units on each site and costs are apportioned to take account of the costs incurred.
- 7.7 It is proposed in the attached fees policy that annual fees would not be charged for sites containing up to five units as these sites are often small family owned

and occupied sites. There is no intention to undertake annual inspections of single family sites and the cost of recovery of fees is likely to outweigh the costs incurred.

7.8 It is also proposed that fees not be charged for new site licence applications for sites of up to five units for a period of 12 months following the adoption of this policy, so as to encourage historic sites that have gone unlicensed for some time to make a site licence application. All other activities surrounding the licensing function will be chargeable as per the fees policy.

7.9 Comparable fees policies are emerging however a general comparison with other local authorities based upon a site of 75 units is summarised below;

Authority	New Site Licence Fee £	Annual Fee £	Licence Transfer £
Peterborough	495	315	170
Wealden DC	330	215	115
Epping Forest	775	410	290
Chichester DC	343	220	77
Gt Yarmouth	252	252	92
BCKLWN	577	346	163

## Background Papers

- a) Report to cabinet, June 2014.
- b) Detailed cost breakdown spreadsheet for proposed fees
- c) Consultation Plan
- d) The Caravan Sites and Control of Development Act 1960 (as amended)
- e) The Mobile Homes Act 2013
- f) DCLG A Guide to Local Authorities on setting site licensing fees
- g) DCLG Advice to local authorities on the new regime for applications for grant or transfer of a site licence
- h) DCLG A best practice guide for local authorities on enforcement of the new site licensing regime
- i) Legal advice from EastLaw

## Policy Implications

It is recommended that the proposed Fees Policy be approved and adopted.

## Financial Implications

An income will be generated from the adoption of the proposed Fees Policy to cover costs associated with the licensing function. The implication of this approach is therefore cost neutral.

## Personnel Implications

No direct implications as the licensing function will be undertaken by existing staff.

## Statutory Considerations

The Mobile Homes Act 2013, Caravan Sites and Control of Development Act 1960 (as amended).

## Equality Impact Assessment (EIA)

Pre-screening summary attached

## **Risk Management Implications**

There are inherent risks associated with any form of regulation and in the case of the proposed amended changes to the site licence conditions we will be operating outside of the norm and therefore could be subject to challenge.

In respect to the enforcement of site licence conditions relating to single family sites we will be assessing each case on its own merits and enforcement will only be considered where there is a significant risk to persons and property. We will adopt an advisory approach as opposed to a regular inspection regime for a significant number of single family sites. This reflects the risk based approach referred to earlier.

The policy and the new approach will be reviewed and evaluated in 12 months.



**Appendix A – Consultation Summary**



## **Appendix B – The proposed amended caravan site licence conditions**



## **Appendix C – The proposed Fees Policy**