

TONBRIDGE & MALLING BOROUGH COUNCIL

STRATEGIC HOUSING ADVISORY BOARD

10 November 2014

**Joint Report of the Director of Planning, Housing and Environmental Health and
the Cabinet Member for Housing**

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 MOBILE HOMES ACT 2013 – CHANGES TO CARAVAN SITE LICENSING

Summary

This report updates Members on the recent changes to legislation surrounding caravan site licensing on permanent residential caravan sites. It also seeks Member approval for a Fees Policy in respect of charges for site licensing and applications and the deposit of site rules.

1.1 Introduction

- 1.1.1 The Mobile Homes Act 2013 (“the Act”) received Royal Assent in March 2013 and the changes to caravan site licensing came into force on 1 April 2014. The 2013 Act makes some significant changes to two long standing pieces of legislation, the Mobile Homes Act 1983 (“the 1983 Act”) and the Caravan Sites and Control of Development Act 1960 (“the 1960 Act”) and is designed to give greater protection to occupiers of residential mobile (park) homes on “relevant protected sites”.
- 1.1.2 A relevant protected site is a caravan site that is used for permanent residential occupation. It does not include those sites which have planning consent for holiday use or planning conditions limiting occupation to certain times or those sites with caravan site licenses exclusively for holiday use or under which permanent residential occupation is otherwise prevented.
- 1.1.3 The 1983 Act sets out the main provisions that apply to the contracts between a park owner and the resident, for example, site rules, pitch fees, transfer or selling of the homes. These are civil matters between the resident and park owner and have commonly been the subject of many of the disputes between parties. The 2013 Act looks to better define the parameters under which these agreements will operate and where necessary decide, if disputes arise. It introduces enhanced protection and regulation of site agreements in relation to relevant protected sites.
- 1.1.4 The 1960 Act sets out the provisions for the licensing and control of all types of caravan sites. The 2013 Act enables local authorities to monitor site licence compliance more effectively and have the tools to take enforcement action where

site owners are not managing or maintaining their sites and its services on relevant protected sites.

1.2 Changes to Caravan Site Licensing

1.2.1 The Mobile Homes Act 2013 amends the Caravan Sites and Control of Development Act 1960 to include provisions where:

- for the first time from 1 April 2014 local authorities can charge the site owner a fee for applying for a caravan site licence or transferring an existing site licence or amending caravan site licence conditions if requested by the owner.
- as well as charging an application fee, local authorities are also now permitted to charge site owners an annual fee for monitoring compliance with the caravan site licence conditions. The level of this fee will depend on various factors including the costs of the administration and inspection of sites. Failure to pay the annual fee may ultimately lead to the site licence being revoked. The Council does not currently inspect these sites pro-actively on an annual basis, responding only to requests for service.

1.2.2 Before the Council can introduce and charge fees it must prepare and publish a fees policy. When fixing a fee for an application, the Council must act in accordance with the fees policy, may fix different fees in different cases and in certain cases may determine that no fee is required.

1.2.3 If the Council introduces a charge for annual monitoring of a site licence the site owner can pass on the fee to the home owners on the site as part of their pitch fee. This additional charge to the annual pitch fee set by the site owner can only be included within the first year of the legislation, until 1 April 2015.

1.2.4 Other new powers permit the Council to:

- Serve a Compliance Notice where a caravan site licence condition is not being complied with or take emergency action where there is considered to be an imminent risk to health and safety. The Council may recover the costs it incurs in deciding whether to serve the notice, preparing and serving the notice as well as expenses incurred in serving the demand notice for recovery of costs. Enforcement Guidance for local authorities is due to be published by DCLG in the near future.
- refuse to grant a site licence where it considers that the applicant is unsuitable to hold a licence. In considering whether to grant a licence or approve a transfer of an existing one, a local authority must have regard to both the proposed management structures to be put into place by the new licence holder, the funding arrangements that will be in place for managing the site and the conduct of the existing licence holder if any. Licenses can

now be refused until arrangements can be made to satisfactorily resolve any issues, including accepting legally binding undertakings to pay outstanding debts or carry out site works required under the licence.

- 1.2.5 From the 4 February 2014 if a site owner of a relevant protected site wishes to enforce site rules, for example no dogs on the site, they must go through a prescribed consultation process and deposit them with the Council. The Council must create an up-to-date register of site rules in respect of relevant protected sites and publish this register on line.
- 1.2.6 There are currently twenty six single unit relevant protected sites with caravans on them licensed in Tonbridge and Malling and four larger relevant protected sites as follows:
- Bourne Park Home Estate, Golden Green – 10 caravans;
 - Towngate Wood Park, Tonbridge – 114 caravans;
 - Hilltop Manor Hotel, Stansted – maximum 20 caravans, currently seven caravans on site; and
 - Rear Harrow Public House, Hadlow – four caravans.
- 1.2.7 The first three are run as businesses whereas the last one is a Gypsy and Traveller family site.

1.3 Fee Policy

- 1.3.1 When setting an application fee for the licensing of a new relevant protected site the Council can take administration and site inspection costs into account and the costs included are illustrated in **[Annex 1]**. Typically this is likely to involve two site visits. One at planning stage or on immediate planning approval to discuss requirements with the site owner and a second visit following the issue of a new licence, to check conditions and site occupation. The total cost of processing a new caravan site licence application is determined to be £335. A caravan site must have planning consent for use as a caravan site before it can be licensed and once licensed it remains in perpetuity until a change of use or planning consent has expired. It is not envisaged the Council will receive a large number of applications for new relevant protected sites, a maximum of perhaps one a year.
- 1.3.2 An application to transfer an existing caravan site licence for a relevant protected site to a new owner will not generally require a site inspection and will be a desktop and administrative exercise. The costs included in administration of the transfer are illustrated in **[Annex 2]**. The total cost of processing a transfer application is determined to be £110. The Council generally receives no more than three transfer applications per year.

- 1.3.3 An application to alter a condition of an existing relevant protected site licence will also generally be a desk top exercise and any fee will be based on administration costs as in [Annex 2]. When setting conditions attached to a caravan site licence the Council has regard to the '2008 Model Standards for permanent residential sites' and the appropriate planning conditions; and also consults with the applicant. Given this consultation process any subsequent requests to change licence conditions are expected to be low and the cost of administering any charges are likely to outweigh making the actual alteration.
- 1.3.4 The cost of checking and publishing the deposit of site rules by the site owner of a relevant protected site is determined to be £60 based on one and a half hours of environmental health officer (EHO) costs and one hour of administration costs. Currently it is likely only Bourne Park and Towngate Wood Park will deposit site rules.
- 1.3.5 The annual monitoring of existing licensed relevant protected sites to check compliance with the caravan site licence conditions would be a new function. The Council already provides a prompt response to any licensing queries raised by residents and site owners. When deciding whether to introduce fees for annual compliance monitoring consideration will need to be given to the following:
- mobile home owners may argue they already pay for council services in terms of council tax and therefore the cost of this licensing function should be covered in this;

if the Council charges there will be a legitimate expectation from mobile home owners that they will get a better licensing service over and above what they currently receive; and
 - if certain relevant protected sites should be exempt from paying an annual fee such as:
 - sites based on a minimum size – this may be single unit sites or sites less than three or five units. The rationale being they are low risk, tend to be family run sites that are not considered commercially viable on their own as a business, are rarely subject to complaints and the cost of inspection is outweighed by the cost of administering any charges;
 - sites not run as a business – this would include family run sites and typical small Gypsy Roma and Traveller sites. Consideration needs to be given how the Council will qualify 'family site' and the evidence required to show that the site is not run as a business if challenged.

1.4 Legal Implications

- 1.4.1 The Council is not under a statutory requirement to charge for its licensing functions of relevant protected sites but if it chooses to do so, it must publish a

fees policy. Similarly it is not a statutory requirement to undertake annual compliance visits.

1.4.2 It is a statutory requirement to establish and keep an up to date register of site rules and publish the register online.

1.4.3 Once a caravan site licence is granted it is not time limited and will run for perpetuity as long as the site continues to have planning consent for a caravan site.

1.5 Financial and Value for Money Considerations

1.5.1 Charging for applications for licensing of relevant protected sites and the deposit of site rules will provide a revenue stream to fund these functions whereas previously this was not available. It is important in the current difficult financial climate that the authority recovers costs to support these functions going forward. If these costs are not recovered, then it will have an adverse impact on the levels of resources available to undertake this work.

1.5.2 Officers have had regard to the Council's fee setting guidance when determining the fee levels referred to in 1.3.

1.6 Risk Assessment

1.6.1 None arising from this report.

1.7 Equality Impact Assessment

1.7.1 See 'Screening for equality impacts' table at end of report

1.8 Recommendations

CABINET is RECOMMENDED to AGREE to Tonbridge & Malling Borough Council

1.8.1 Charging an application fee of £335 for processing a new caravan site licence for a relevant protected site.

1.8.2 Charging an application fee of £110 for the transfer of a licence to a different licence holder for a relevant protected site.

1.8.3 Not charging for alterations to existing site licence conditions attached to a caravan site licence.

1.8.4 Charging a fee of £60 for administering the deposit of site rules, maintaining and publishing the site rules online.

1.8.5 Undertaking a consultation exercise with residents and site owners on the four larger relevant protected sites identified in 1.2.6 to determine their view regarding annual compliance monitoring of site licence conditions detailed in 1.3.5 and the

charging of a fee for this function. The findings of this consultation exercise to be reported in a further paper to this Board.

Background papers:

contact: Hazel Skinner

Nil

Steve Humphrey

Councillor Jill Anderson

Director of Planning, Housing &
Environmental Health

Cabinet Member for Housing

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The charging of a fee is applicable to all applicants for a new licence or the transfer of a licence on a relevant protected site. Similarly the fee for the deposit of the site rules by the site owner on a relevant protected site is applicable to all.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	Caravan site licence applicants already have equal opportunity to make a caravan site licence.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.