

REPORT TO	ON
GENERAL LICENSING COMMITTEE	28 NOVEMBER 2017

September 2017



TITLE	REPORT OF
RESIDENTIAL CARAVAN SITES – PROPOSED ADOPTION OF (1) MODEL STANDARDS 2008 AND (2) DRAFT MOBILE HOME FEE POLICY WITH ASSOCIATED DOCUMENTATION	DIRECTOR OF DEVELOPMENT, ENTERPRISE AND COMMUNITIES

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

This report will present (i) the Model Standards 2008 and (ii) a draft Mobile Homes Fee Policy and associated documentation, with a view to seeking members' agreement to enter a consultation exercise on the adoption of both matters.

2. RECOMMENDATIONS

Members are requested to:

Model Standards 2008:

- 2.1 consider the Model Standards 2008 for Caravan Sites in England (attached as Appendix 1);
- 2.2 with regard to future applications for a site licence, agree that the Licensing Section should undertake a consultation exercise with stakeholders on the proposed adoption of the Model Standards 2008 using the methodology set out in section 10 of this report;
- 2.3 with regard to existing holders of a site licence, agree that the Licensing Section should enter into negotiations with each of the 3 current holders of a site licence in order to secure their agreement for incorporation of the 2008 Model Standards within the site licence.

Draft Mobile Homes Fee Policy:

- 2.4 consider the attached draft Mobile Homes Fee Policy (Appendix 2) and associated documentation (Appendices 3-5);
- 2.5 agree that the Licensing Section should undertake a consultation exercise with stakeholders on the proposed adoption of the draft Mobile Homes Fee Policy, using the methodology set out in section 10 of this report; and
- 2.6 agree in principle that – should the draft Mobile Homes Fee Policy be adopted - holders of a site licence should pay an annual fee for an inspection by Licensing staff from 2018/19 onwards (section 7.7.3 below refers).

General:

- 2.7 in relation to both of the above, agree to receive a report on the outcome of the consultation exercises at a future meeting, with a view to forwarding the draft documentation referred to in sections 2.1 and 2.4 above to full Council for formal adoption.

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities

Clean, green and safe	X	Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	X

4. BACKGROUND – MODEL STANDARDS 2008

- 4.1 The Council has responsibility for the licensing of residential mobile home sites, including the application and enforcement of appropriate conditions. This arises from the Caravan Sites and Control of Development Act 1960 (“the 1960 Act”).
- 4.2 The Government is able to produce guidance on conditions to be applied to caravan sites. The most recent guidance for residential sites was produced in 2008, although this guidance does not appear to have been formally adopted by the Council.
- 4.3 The aim of licence conditions is to promote the safety and welfare of the residents. The specific purposes for which conditions can be applied are set out in Section 5 of the 1960 Act.
- 4.4 The currently-licensed residential sites in the borough are:

Site:	No of residential plots	Date that site licence issued:
Carrwood Park Oakland Glen Walton-le-Dale PR5	80	13.5.03
Croft Park Wigan Road Leyland PR25	Approx. 50	23.1.17
Penwortham Residential Park off Stricklands Lane Penwortham PR1	78	5.11.02
Total:	208	

- 4.5 The definition of “caravan” under the 1960 Act encompasses what are commonly called “park homes” or “mobile homes” as well as more traditional static caravans. The licence cannot apply conditions beyond the limitations of any planning conditions.
- 4.6. The use of land as a residential mobile home site is controlled by relevant planning legislation. The standards, layout and amenities are controlled by the site licence which is issued under section 5 of the 1960 Act. Conditions are attached to the licence which relate

to the physical use of the site and its management. The local authority must consider the national guidance and any consultation with the fire service when deciding what conditions to attach.

- 4.7 The Model Standards 2008 for Caravan Sites in England (Appendix 1) replaces the previous 1989 version and incorporates a number of new requirements, particularly in relation to maintenance of sites and flood protection measures. In addition, other recommended standard conditions have been modified. Significantly, the latest guidance also takes into account the effect of the Regulatory Reform (Fire Safety) Order 2005. For the avoidance of doubt, the guidance does not apply to sites which are used for holiday and/or touring caravans or for traveller sites.
- 4.8 Under Section 8 of the 1960 Act, the local authority may also consider from time to time altering the conditions held on an existing site licence. When doing so, the authority must consider whether it is appropriate to apply any new standard and justify any reasons for doing so. The authority must also have regard to the benefit that the standard will achieve and the interests of the residents and licence holder. This process must involve consultation with the licence holder and the residents/residents association allowing them an opportunity to make representations.

5. CURRENT POSITION – SITE LICENCES

- 5.1 As stated above, the Council should maintain standard licence conditions for the benefit of residents of residential caravan sites. These standard conditions should provide clarity to both the site owners and licence holders.

Existing holders of a site licence:

- 5.2 Copy licences held on file for the 3 sites identified in section 4.4 above state that:

“The site must at all times comply with the Model Standards currently in force in respect of Permanent Residential Caravan Sites”

- 5.3 Given that two of the licenses issued pre-date the 2008 Model Standards, and the model conditions attached to the site licence for Croft Park (issued after 2008) do not appear to match the 2008 requirements, it is appropriate for the Council to seek to apply the 2008 Model Standards to existing licences. For existing sites, the 2008 Model Standards can only be applied through a process of negotiation with the licence holder, where the local authority can justify the reason for applying the new Standards and demonstrate the benefits that this will achieve (taking into account the interests of both the residents and the site owner).

- 5.4 Clearly, the updating of site licence conditions will need to allow a certain amount of time for the licence holders to bring the sites up to the required standards. Where there is no apparent significant risk to health or safety, it is proposed to allow a phased approach to upgrading or changes to be made. This will also allow time for consultation with residents and site owners on any changes required.

- 5.5 The General Licensing Committee will be updated on the progress of negotiations with current holders of site licences at a future meeting.

Future applicants for a site licence:

- 5.6 The 2008 Model Standards – if subsequently adopted - would then apply automatically apply to any new licences issued by the Council. However, this can only be done after a period of consultation as outlined in section 9 below.

6. BACKGROUND – FEE POLICY

- 6.1 On 8 September 2015, the General Licensing Committee had received a report on the proposed Mobile Home Fee Policy (including associated documentation) made under the Mobile Homes Act 2013. The minutes of the meeting show that the Committee noted the proposed Mobile Homes Fee Policy; made certain comments about the associated documentation; and agreed that the proposed Fee Policy be approved for public consultation in order to allow providers and users of mobile homes sites an opportunity to comment on the legislative changes within the 2013 Act.
- 6.2 A 12 week period of consultation was then undertaken; it is understood that this involved use of the Council's website to publicise the consultation and also a letter being delivered by hand to every park home resident in the Borough. Council records indicate that no responses to the consultation exercise were received. Due to the unforeseen changes in staffing circumstances which then prevailed in early 2016, the results of the public consultation exercise were not reported back to the General Licensing Committee and the matter was not progressed any further. Accordingly, no charges permitted by the 2013 Act have yet been levied by the Council.
- 6.3 The following section of this report is intended to re-visit the issues first put before the General Licensing Committee in September 2015 and seek members' views on undertaking a new public consultation exercise on the contents of a draft Fee Policy.

7. CHANGES TO LEGAL REGIME AND PROPOSED FEES

- 7.1 As stated above, South Ribble Borough Council has traditionally granted caravan site licences under the 1960 Act referred to above. However, the 1960 Act was amended by the Mobile Homes Act 2013 ("the 2013 Act"), and new legislative changes came into effect from 1 April 2014. The aim of the new legal regime was to provide greater protection to occupiers of residential park homes and caravans, as the existing legislation had not been updated for more than 50 years.
- 7.2 Powers for local authorities to charge fees for their licensing functions extend only to "relevant protected sites" as defined in the 1960 Act. A relevant protected site is defined in the statute as any land to be used as a caravan site with planning consent, other than one where a licence is:
- granted for holiday use only; or
 - in any other way subject to conditions which restrict the usage of the site for the stationing of caravans for human habitation at certain times of the year (such as planning conditions).
- 7.3 The 3 sites currently licensed by this authority and identified in section 4.4 above will fall within the definition of a relevant protected site and will therefore be subject to the fee-charging regime. Sites which do not fall within the definition of 'relevant protected sites' are still subject to the licensing requirements contained within the 1960 Act, but crucially the provisions relating to payment of fees do not apply.
- 7.4 The 2013 Act introduces some important changes to the buying, selling or gifting of a pitch on a relevant protected site, as well as setting out rules relating to the fees which councils may charge. Where a local authority decides to charge fees these must be published in its Fees Policy document. Fees must be transparent and reasonable. A copy of the Council's draft Fees Policy is attached to this report as Appendix 2. Also attached as Appendix 3 is a document setting out the calculations which underpin the proposed level of fee to be charged if the Fee Policy is adopted. For ease of reference, the proposed fees are set out in the following sections of the report, along with an assessment of the Council's current stance.

7.5 Applications to grant a new licence

7.5.1 All sites (subject to exemptions contained within legislation) require a licence to operate a residential park home site. Failure to make an application for a site licence is a criminal offence under Section 1(2) of the 1960 Act. Section 3(2A) of the 1960 Act as amended allows the local authority to require a fee to accompany applications for licences, and this should accompany any new application. The Council may only issue a licence for a site with a valid and correct planning permission for the use of the land as a residential park home site. Any application made before the planning status must be processed within 6 weeks of the planning decision. Sites which already have the correct planning permission in place must be processed within 2 months of the receipt of the site licence application.

Proposed new licence application fee £260.57 (plus £6.50 per additional unit on site)

Current position:

7.5.2 All 3 sites previously issued with a site licence by the Council have not been charged any fee for the licence issued. (This would be appropriate given that no fee policy was in place). As the licence is not renewed annually, but exists until it is revoked or surrendered, it is not proposed to charge a retrospective fee for a licence previously issued. Any new applicants for a site licence would need to pay the fee imposed by the Council at the time.

7.6 Applications to transfer or amend an existing licence

7.6.1 Where an existing licence holder or new site owner wishes to transfer or amend an existing licence, an application must be made to the Council, for which a fee is payable. Section 10(1A) of the 1960 Act (as amended) allows the Council to charge a fee for this function.

Proposed fee for transferring / amending a licence £104.90

7.6.2 Where significant amendments to the site licence conditions are requested, and this is likely to involve a site visit, the fee for this licensing activity will increase accordingly.

Proposed fee for transferring / amending a licence with site visit required £181.65

Current position:

7.6.3 No charges are currently levied by the Council for a licence transfer or amendment.

7.7 Annual licence fees for administering and monitoring existing site licences

7.7.1 All 'relevant protected sites' must pay an annual fee to the Council (subject to any exemptions). The annual fee covers the costs associated with an annual site inspection to ensure compliance with site licence conditions and a follow up visit to ensure compliance with any formal schedule of works. If there is still a breach in site licence conditions at the point of the follow up visit, further charges may be payable to cover the costs of any enforcement action which may be taken.

7.7.2 The proposed fee is calculated on a price per unit based on the total estimated cost to the Council of carrying out its annual licensing function for all 'relevant protected

sites' in the Borough. The unit cost is multiplied by the actual number of each unit on each site to provide the annual fee payable.

Proposed annual Fee – number of pitches x £7.97 per pitch

Current position:

- 7.7.3 No annual fees are currently levied by the Council for administering and monitoring existing site licences. However, if the Fees Policy is ultimately adopted by the Council, it would be appropriate for an annual fee (accompanied by an inspection) to be initiated in the year of adoption (2018/19). In section 2.6 above, members are asked to endorse the proposal to begin charging the annual fee to cover inspection costs from 2018/19.
- 7.7.4 Further detail about enforcement sanctions available to officers is given in section 9 below.

7.8 Site Rules

- 7.8.1 Site Rules are different to the site licence conditions and are put in place by the owner of the site to ensure that (a) acceptable standards are maintained for the benefit of residents and (b) to promote and maintain community cohesion on the site. The 2013 Act changes the way in which the Site Rules must be agreed between the site owner and residents.
- 7.8.2 The 2013 Act requires that the operators of relevant protected sites deposit their Site Rules with the local authority. The Council is then required to keep a public register of Site Rules and publish this online.
- 7.8.3 The legislation allows the Council to charge a fee for depositing, amending, or deleting Site Rules. Before publishing the Site Rules the Council will ensure the rules deposited have been made in accordance with the Statutory Procedure.

**Proposed fee to deposit, amend or delete (and then publishing) site rules
£81.14**

Current position:

- 7.8.4 The Council currently displays the following on its website at the following address:

<https://www.southribble.gov.uk/content/caravan-site-licensing>

Public Register of Protected Site Rules

The Mobile Home Act 2013 requires that the operators of protected residential park home sites deposit site rules with the local authority. The Council is required to keep a public register of site rules.

Site rules which have been deposited with South Ribble Borough Council can be viewed below:

Carrwood Park Site Rules

Croft Park Site Rules

Penwortham Residential Park Site Rules.

7.8.5 However, no charge for the depositing of Site Rules is currently made.

8 DRAFT FEES POLICY – ADDITIONAL COMMENTS

8.1 The fee rates set out in the draft Policy attached as Appendix 2 are intended to cover the period from adoption to 31st March 2019. It is proposed that the fee levels will be revisited on a 12 monthly basis thereafter to ensure their continued accuracy.

8.2 A copy of the proforma to be completed when applying for a new site licence under the 2013 Act is attached as Appendix 4.

8.3 An Equality Impact Assessment has been compiled and is attached as Appendix 5.

9 ENFORCEMENT OPTIONS AVAILABLE

9.1 In the event of a complaint made against a “relevant protected site”, or a finding of non-compliance with a licence condition discovered on inspection under section 7.7 above, officers will work with the site owner to resolve any matters of concern. However, where a local authority considers that a park owner is failing or has failed to comply with a site licence condition it has the option to serve a statutory Compliance Notice on the park owner listing the steps that need to be taken, within a specified time period, to comply with the requirements of the site licence. The Compliance Notice must specify to the park owner:

- (a) the site licence condition and how the park owner has failed to comply;
- (b) the steps that need to be taken to ensure compliance;
- (c) the time period allowed to carry out those steps to ensure compliance; and
- (d) the right the owner has to appeal the Notice.

9.2 A site owner on whom a Compliance Notice is served may appeal to the First Tier Tribunal (Property Chamber) within 21 days of service of the notice. For example, the site owner may consider that the notice has been served on the wrong person; that the works specified are unnecessary or excessive; or that the time period allowed is unreasonable.

9.3 The tribunal may quash the Notice; vary it; or endorse it. If the Compliance Notice remains valid after an appeal, it becomes a criminal offence if it is not complied with. The penalty for a contravention, following a successful prosecution, is a level 5 fine.

10 PROPOSED CONSULTATION / COMMUNICATION PLAN

10.1 Should members wish to proceed with the proposed consultation exercise, it will be necessary to engage with local interested parties. As well as relevant protected sites, it is proposed to consult with all residents who occupy a pitch on them – this is because any fees levied by the Council are likely to be reflected in increased charges for residents. Also other stakeholders such as the Planning Department, the Local Fire and Rescue Service and the HSE.

10.2 It is therefore proposed that the following process be adopted:

- a) details of the consultation exercise will appear on the Council’s website;
- b) all 3 current holders of a site licence identified in section 4.4 above will be written to and advised of a formal 28 day consultation period, along with the ways in which any feedback may be submitted; and
- c) each mobile home on the 3 sites above will be hand-delivered a letter by Licensing staff. The letter will give details of the consultation exercise and how any views may be submitted as part of the consultation process.

10.3 On conclusion of the consultation exercise, a further report can then be presented to members updating them of the feedback / responses received. Should members still wish to proceed at that point, the report can be forwarded for consideration for adoption by the committee and confirmation by full Council.

11. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

11.1 Comments of the Statutory Finance Officer

As set out above, under the legislation in relation to residential mobile home sites, local authorities have the power to charge fees for their licensing functions where the sites meet the definition of relevant protected sites. Fees set are on a cost recovery basis, based on specified activities defined by the DCLG and these fees must be published in a Fees Policy document. Fees must be transparent and reasonable and therefore the basis of the proposed new charges has been appended to this report.

11.2 Comments of the Monitoring Officer

The legal implications have been identified in the body of the report.

Other implications:	
▶ Risk	Failure to formally adopt the 2008 Model Standards would prevent these standards being applied to future applicants for site licence. Should the Council decide that it wishes to charge fees under the Mobile Homes Act 2013, a Fees Policy must be adopted.
▶ Equality & Diversity	None
▶ HR & Organisational Development	None
▶ Property & Asset Management	None
▶ ICT / Technology	None

12. BACKGROUND DOCUMENTS (or there are no background papers to this report)

- Appendix 1 – 2008 Model Standards
- Appendix 2 - SRBC Mobile Homes Fees Policy (draft)
- Appendix 3 – SRBC fees working out document (draft)
- Appendix 4 – SRBC Mobiles Homes Application form (draft)
- Appendix 5 – Equality Impact Assessment

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