

REPORT TO	ON
GENERAL LICENSING COMMITTEE	20 FEBRUARY 2018

September 2017



TITLE	REPORT OF
RESIDENTIAL CARAVAN SITES – PROPOSED ADOPTION OF: (1) MODEL STANDARDS 2008; (2) DRAFT MOBILE HOME FEE POLICY; AND (3) ASSOCIATED DOCUMENTATION	PETER HAYWOOD

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

Taking into account (i) the Equalities Impact Assessment (attached as Appendix 5) and (ii) the outcome of the consultation exercise undertaken in December 2017 / January 2018 (summarised throughout sections 9 and 10 below), this report invites members to consider recommending the formal adoption of:

- the Model Standards 2008 (Appendix 1); and
- the draft Mobile Homes Fee Policy (Appendix 2); and
- associated documentation (Appendices 3 and 4).

2. RECOMMENDATIONS

Members are requested to:

- 2.1 with regard to the 3 current holders of site licences within the Borough, note the limited progress made by officers with regard to the voluntary adoption of the Model Standards 2008 and the further correspondence to be initiated (section 8 below);
- 2.2 with regard to future applications for a site licence, consider whether to forward this report to the meeting of full Council on 21 March 2018 with a recommendation for formal adoption of the Model Standards 2008 (attached as Appendix 1) and a draft application form (Appendix 4);
- 2.3 with regard to both the existing holders of and future applicants for a site licence, forward this report to the meeting of full Council on 21 March 2018 with a recommendation for formal adoption of the draft Mobile Homes Fee Policy (attached as Appendix 2) and the associated methodology for determination of fees (Appendix 3); and
- 2.4 note the comparative data for fees charged by other licensing authorities set out in section 12 below.

3. EXECUTIVE SUMMARY

- 3.1 This report relates to two associated matters relating to the licensing of residential mobile home sites.
- 3.2 The first such matter is the proposed adoption of the Model Standards 2008 (these being standard conditions developed by central government). If adopted by the Council, the Model

Standards would apply automatically to any new site licence granted by this authority. The report sets out the outcomes of a consultation exercise authorised by the General Licensing Committee at its November 2017 meeting. The Model Standards, however, cannot be applied retrospectively to the 3 sites currently licensed by South Ribble Borough Council – the report updates members on correspondence sent to each of the site owners which seeks to open discussions on the voluntary adoption of the 2008 Standards by the site owners.

- 3.3 The second aspect of the report relates to the proposed adoption of a Fee Policy which would enable the Council to charge fees for site licences and associated activity. The report sets out a methodology used to calculate the proposed fees; the relevant fees in question; and the outcomes of the consultation exercise again authorised at the General Licensing Committee in November 2017. The report provides comparative data previously requested by members on fees levied by other licensing authorities, and sets out the steps taken (at members' request at the January meeting) to promote the meeting and accommodate a potentially larger audience.

4. 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

5. INTRODUCTION

- 5.1 Members of the General Licensing Committee will recall that, at their meeting in November 2017, they received a report relating to the licensing of residential mobile home sites. The report detailed the proposed adoption of the Model Standards 2008 and a draft Fee Policy which would enable the Council to charge for certain activities relating to the licensing of such sites.
- 5.2 Members agreed that a consultation exercise should be undertaken with a view to the potential adoption of both the Model Standards 2008 and the draft Fee Policy. The purpose of this report is to update members on the outcomes of the consultation exercise which has subsequently taken place.

6. OUTLINE OF CONSULTATION EXERCISE

- 6.1 In relation to both the Model Standards 2008 and the draft Fee Policy, the following methodology was adopted for the consultation exercise:
- the consultation period was agreed as 18 December 2017 to 5pm on Sunday 28 January 2018. This was to give adequate time to encompass the Christmas and New Year holidays;
 - the landing pages for the consultation exercise were drawn up and placed on the Council's website;
 - an advisory letter was sent to each of the 3 currently-licensed site operators on 12 December 2017 informing them of the forthcoming exercise; and
 - a similar letter was also hand-delivered by Licensing staff to all residents of the licensed sites on 18 December 2017.

6.2 A log was devised on which all consultation responses were recorded. To assist members in their deliberations, the consultation responses received for both Model Standards and the draft Fee Policy are summarised after the relevant sections of the report below.

7. BACKGROUND – MODEL STANDARDS 2008

7.1 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”).

7.2 The Government produces occasional 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.

7.3 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.

7.4 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	

7.5 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.

8. CURRENT POSITION – EXISTING HOLDERS OF SITE LICENCES

8.1 Given that two of the three licences currently issued by the authority pre-date the 2008 Model Standards, and the model conditions attached to the third site licence (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 cannot be applied retrospectively; they 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).

- 8.2 Consequently, a letter was sent to each of the three current holders of a site licence to inform them of the Council's proposed adoption of the Model Standards 2008, and to ask them to consider their voluntary adoption. This letter was sent on 19 December 2017 and asked the licence holders to make contact with a view to discussion taking place.
- 8.3 At the time of writing this report, only the owners of Carrwood Park had responded to this letter. In their response they confirmed their willingness to adopt the Model Standards 2008, but only from the current point in time onwards (ie not with regard to mobile homes already in situ on their site). No response from any other site owners has been received.
- 8.4 It is therefore proposed to send a follow-up letter to the 2 sites which have not yet responded to the letter of 19 December, with a further invitation to commence dialogue in the near future. The outcome of this correspondence will be reported to a future meeting of the committee.

9. OUTCOME OF CONSULTATION – ADOPTION OF MODEL STANDARDS 2008

- 9.1 If adopted, the Model Standards 2008 would automatically apply to any site which in the Borough is the subject of an application for a site licence.
- 9.2 In the course of the consultation exercise on the proposed introduction of the Model Standards 2008 (carried out in accordance with the methodology in section 5 above), the following responses were received:

Source	Comments	Council response
Resident (15.1.18)	Wanted explanation of what proposals meant	Provided explanation
Site owner (22.1.18)	Wanted to see letter sent to residents	Provided
	Has there been discussion with the residents' association	Yes

10. DRAFT FEE POLICY - CHANGES TO LEGAL REGIME AND PROPOSED FEES

- 10.1 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.
- 10.2 The 3 sites currently licensed by this authority (and any similar sites which are the subject of a future licence application) fall within the terms of the legislation and will therefore be subject to the fee-charging regime.
- 10.3 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 a summary of any relevant consultation responses. In addition, a summary of general comments made is given below:

Source	Comments	Council response
Representative of site residents (27.12.17)	Any fees levied by the Council on the site owner will undoubtedly be passed on in full to the residents, which will be in addition to their monthly rent and subject to an increase in line with RPI. The residents base this belief on the fact that the Act (and its predecessor) allows site owners to extract a commission of UP TO 10% on the sale of any park home, and not one site owner in the country extracts a penny less than 10%.	Noted
	If the site owners are not responsive to the councils requests necessitating in increased visits and extra vigilance then a further charge could be imposed. Will this also be passed onto the residents?	Confirmed belief that it could.
	The introduction of this regime will not be beneficial for the residents as the Council will not be able to spend much time on enforcement for the fees charged. We have unfortunately in the past felt a little like a convenient ping pong ball between SRBC and the site owners.	Noted
	The pitch rent fees we all pay are becoming a significant burden to lots of residents and seem to be creeping up in ever increasing increments each year and all subject to RPI which is currently running at 4%, all this is in addition to the normal council tax paid to SRBC, The result of this is that being park home owners is becoming a very expensive way to live on our limited retirement income	Noted
Resident (15.1.18)	Wanted to understand what the letter dated 18.12.17 meant in practice	Advised

10.4 Applications to grant a new licence

- 10.4.1 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 of £261 (rounded up, plus £6.50 per additional unit on site)

Consultation responses:

None

10.5 Applications to transfer or amend an existing licence

- 10.5.1 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 £105 (rounded up)

Consultation responses:

- Site owner 22.1.18 – if a site is sold prior to adoption of Fee Policy, would a fee be payable? (Advised no).

- 10.5.2 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 £182 (rounded up)

Consultation responses:

None

10.6 Annual licence fees for administering and monitoring existing site licences

- 10.6.1 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.
- 10.6.2 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 £8 per pitch (rounded up)

Consultation responses:

- Site owner (22.1.18) – is the proposed fee of £8 final or an estimate? (Advised - firm figure)
- Site owner (22.1.18) – when would inspection regime (and therefore the date when invoices would be sent to sites) be likely to commence? (Advised – after any adoption by full Council).

10.7 Recovery of compliance costs

10.7.1 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 10.6 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.

10.7.2 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.

10.7.3 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.

Proposed hourly rate at which enforcement costs may be recovered - £34 (rounded up)

Consultation responses:

See general comments in section 10.3 above.

10.8 Site Rules

10.8.1 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.

10.8.2 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.

10.8.3 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 £82 (rounded up)

Consultation responses:

- Site owner (22.1.18) – if site rules have already been deposited, would a fee now be payable? (Advised no).

11 DRAFT FEES POLICY – ADDITIONAL COMMENTS

11.1 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.

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

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

12. DRAFT FEES POLICY – COMPARISON WITH OTHER LOCAL AUTHORITIES

12.1 At their meeting in November 2017 members of the Committee requested data enabling them to make a comparison of the fees proposed by this authority as opposed to fees charged by others. Accordingly, the following table has been compiled:

	SRBC (proposed)	Fylde	Cheshire East	Craven	Eden
Annual fee	£8 per pitch	£250 + £5 per pitch	£154-£494*	£0-£483*	£9 per pitch
New application fee	£261 + £6.50 per pitch	£320	£154-£494*	£171-654*	£412 (0-5 pitches) plus £80 per additional 10 pitches or part thereof
Transfer fee	£105	£190	£72	£250	£260
Simple licence amendment	£105	£375	£72		£196
Detailed licence amendment	£182		£261		
Deposit of site rules	£82	£80	£20	£50	£80

*dependant on pitch numbers

12.2 The above figures show a wide variation in the range of charges levied. However, this may not be surprising given that fees are calculated on a cost-neutral basis with varying degrees of officer / management time devoted by individual authorities.

13. STEPS REQUESTED AT JANUARY MEETING

13.1 Members will recall that, at their meeting on 23 January 2018, they asked for certain measures to be taken in advance of the February meeting. These included:

- promoting the meeting at which the outcome of the consultation would be considered ; and
- holding the meeting on 20 February in a room with a bigger capacity in case members of the public were to be accommodated.

13.2 As a result, the following measures have been taken:

- the venue has been moved to the larger Shield Room in the Civic Centre;
- social media has been used to promote the event;
- a poster has been produced for on-site display; and
- an advisory letter has been sent to the site owners; residents (including site representatives) who have responded to the consultation; and site managers.

14. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

14.1 Comments of the Statutory Finance Officer

There are no financial implications arising from the recommendations in this report, however if a fees policy is adopted this will generate additional income to the Council.

14.2 Comments of the Monitoring Officer

The Legal implications can be found in the body of the report.

If the 2008 Model Standards and the Fees Policy for Mobile Homes are to be utilised, then will have to be adopted at a meeting of Council.

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

15. 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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