



North Devon Council

Report Date: 4 December 2023

Topic: Residential Park Home Sites, Fees and Licensing and Compliance Policies

Report by: Katy Nicholls, Public Protection Manager

1. INTRODUCTION

- 1.1 North Devon Council is responsible for the licensing of caravan sites and sites used for camping. There are two main areas of caravan site licensing, those sites with residential caravans, commonly referred to as 'residential park home sites', and those with caravans sited for holiday purposes.
- 1.2 The legislation surrounding caravan sites allows the Council to impose a fee for those sites used for residential purposes only. The Council does not currently impose any fees for residential caravan site licences, and this does not allow the Council to adequately recover the associated costs of processing applications, issuing licences, and ongoing licence maintenance and administration.
- 1.3 The purpose of this report is to recommend approval of a new set of fees for residential caravan site licences, contained in a Fees Policy and to approve a Policy on the Licensing and Compliance of Residential Park Home Sites.

2. RECOMMENDATIONS

2.1. That Strategy and Resources:

- 2.1.1 consider the draft Fees Policy for the Licensing of Residential Park Home Sites, contained in **Appendix A** (and associated calculations of these fees contained in **Appendix B**) which proposes new fees to be implemented from April 2024..
- 2.2.2 consider the draft Policy on the Licensing and Compliance of Residential Park Home Sites contained in **Appendix C**.

- 2.2.3 instruct the Public Protection Manager to undertake a six week period of consultation on the above documents, and provide feedback on the results of the consultation exercise to a future committee meeting.

3. REASONS FOR RECOMMENDATIONS

- 3.1 Despite legislative changes creating a position whereby fees may now be charged for licence applications and inspections associated with residential park home sites, the Council has no Fees Policy or fee structure in place. If fees are to be charged it is necessary for the Council to calculate its fees in line with the principles of best practice and to have in place a suitably robust Fees Policy (Section 10A, The Caravan Sites and Control of Development Act 1960).
- 3.2 It is necessary to clarify the Council's position with regards to site licence compliance. The draft Policy on the Licensing and Compliance of Residential Park Homes has been designed to support the Fees Policy. It sets out how this licensing regime is to be administered and regulated.

4. REPORT

- 4.1 The Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013) (the Act), authorises local authorities to issue licences in respect of caravan sites. Whilst sites used for holiday purposes do not attract a fee, the Council may require applications for 'relevant protected sites' (more commonly referred to as residential park home sites licences) to be accompanied by a fee fixed by the authority. Fees may also be charged for applications to transfer site licences, to change conditions on site licences, and to deposit site rules with the authority. Furthermore, separate fees may be charged for enforcement and local authorities may charge for the administration and monitoring of site licences by levy of an annual fee. A summary of the pertinent legislation covering fees is contained at **Appendix D**.
- 4.2 There are no fees currently set for residential caravan site licences and therefore the Council has been under-recovering fees from this licensed community. A proposal to consult on a set of draft fees was approved by Licensing and Community Safety Committee in January 2020, however Covid-19 then made the consultation inappropriate in its timing and staff were diverted away from this project. The Council currently has ten residential sites licensed across the district, with more than one caravan onsite. Sites range in size from approximately 22 to 107 units.

- 4.3 The fees for caravan site licensing are 'locally set', meaning that fees are not prescribed by statute. The Council has yet to approve fees since April 2014 when the amendments to the Act became effective, and it is now necessary to ensure that the Council better recovers its costs. Locally set fees are a vital means of ensuring that costs can be recovered by local authorities rather than relying on a subsidy from local tax payers. Businesses that benefit from caravan site licences should be asked to pay any reasonable costs incurred by the local authority in providing that licence. However, they must also be able to depend on the local authority fees being fair and reasonable. The fees are payable by the site owners.
- 4.4 When setting the fees, local authorities should have regard to 'The Mobile Homes Act 2013, A Guide for Local Authorities on Setting Site Licensing Fees' issued by the Department for Communities and Local Government; 'Open for Business: LGA Guidance on Locally Set Licence Fees'; the 'BEIS Guidance for Business on the Provision of Service Regulations'; and principles in the Regulators' Code which sets out the steps that must be taken to set fair and reasonable fees. These documents have been considered when formulating those fees recommended for approval and contained in **Appendix A**.
- 4.5 The Provision of Services Regulations 2009, cites that any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities. This means that councils may not make any profit from charging applicants for licence applications or from regulating individual licensing functions.
- 4.6 Fees should cover the costs or part of the costs incurred by a local authority under its functions in Part 1 of the Act, other than the costs of enforcement action, or any functions carried out under Section 23 or 24 of the Act (power of local authorities to prohibit caravans on commons or provide sites for caravans).
- 4.7 Under Section 9C of the Act an authority is entitled to recover its 'expenses' in deciding to and in the service of a Compliance Notice. This includes costs incurred in inspections, preparing the notice and obtaining expert advice on it and any interest the authority intends to charge. Similarly an authority can recover the costs in serving notices in respect of work in default and emergency works under Section 9F. The totality of costs or likely costs in investigating complaints, inspecting sites and other monitoring etc., can be included within the fee structure. However, once a decision has been taken to take formal enforcement action in a particular case by serving a notice, it can recover all of the actual costs that led to that decision being taken, including for example costs incurred in

dealing with the complaint and inspections, or by serving a demand on the site owner with the relevant enforcement notice. The Fees Policy proposed at **Appendix A** encompasses these on an individual case by case basis.

- 4.8 There are a number of different options available to authorities in setting a fee but it is important not to target individual sites because they require greater action in terms of enforcement.
- 4.9 The fees must be reasonable and proportionate to cover the cost of processing the procedures and formalities associated with the relevant licensing function, and they must accurately reflect the actual costs incurred by the Council. [Mobile Homes Act 2013 a guide for local authorities on setting licence fees](#) issued by the Department for Communities and Local Government provides examples of the matters on which authorities are recommended to take account. These factors have been considered when calculating the proposed fees.
- 4.10 The above guidance (at paragraph 2.2) states that in assessing annual fees an authority will need to take account of their overall costs in respect of their licensing functions and/or base such fees on a “typical” site (or where banding typical within the category). The document also cites a number of different options available in setting a fee structure, such as banding by risk or size or a flat rate charge. A fee based upon numbers of units is deemed to be a fair, and proportionate method of charging fees in this instance. Thus, the calculations detailed in **Appendices A and B** are broken down into four categories, namely 2-50, 51-100, 101-150 and 151 plus units of accommodation. In North Devon it is perceived that 80% of sites will fall into the 2-50 band. Officers have determined it appropriate to use the same methodology for grant of a licence and the payment of annual fee, hence the same bands of units of accommodation are used to provide for consistency.
- 4.11 Fit and proper person fees were approved on 28 June 2021, whereby a fee of £165.10 was imposed. Based upon increases in hourly rates and marginal increases in time now allowed in the calculations (based on experience of implementing this regime), an increase is recommended. The fee proposed is £200.05. The next renewal of registrations is due in 2026 and therefore this will not have any significant implication in terms of cost recovery as new applications are limited.
- 4.12 The main cost associated with the fees calculated is in respect of officer time. Officer time includes direct and indirect costs. Direct costs include wages, pension contributions, National Insurance, etc. On-costs include the reasonable costs of providing heating and lighting in the office, general IT, photocopying, and other administrative services. They include business support such as Customer Services, Legal Services and HR. It is believed that using staff rates with on-costs is the fairest way to recoup these costs. Licence applications that

take very little time will pay less and the more complex applications will pay more. Financial Services have advised on hourly rates of staff and these have been used in preparing the calculations.

- 4.14 The annual fee for a licence for a residential caravan site is payable on a fixed date each year, decided upon by the authority. This will be confirmed to licence holders.
- 4.15 It is worthwhile noting that a local authority cannot charge separately for its advice or work in advance of receipt of a caravan site licence application. However the guidance indicates that it can build into its fee structure for such applications the costs or likely costs, it incurs as a result of such pre-application advice, including where no formal application is subsequently submitted. Pre-application advice has been built into the proposed fee calculations.
- 4.16 There is a possibility to exempt certain types of site and in this instance it is not proposed to charge sites with a single residential caravan unit. The rationale for this exemption being that such sites are low risk; the fact they tend to be family run; rarely for business purposes, and rarely if ever are they subject of complaints. The costs of inspection in these instances are likely to be outweighed by the costs of administering charges. Moreover, the Fit and Person Registration does not relate to non-commercial family-occupied sites and therefore such an approach would mirror this legislative regime, alongside being an approach taken by other local authorities by way of their policies.
- 4.17 Whilst it is not appropriate to benchmark fees amongst other local authorities, considering fees must be calculated in a manner which is proportionate with the costs of administering and regulating the licensing regime, in terms of making comparisons across the region, it is noted that not all charge fees. As an example, neighbouring authority Mid Devon Council do not (other than for fit and proper person registration, a more recent requirement), however Torridge District Council and Cornwall Council do so. The fees proposed are not significantly out of line with these two authorities, however the nature of the calculations and fee structures vary.

Consultation

- 4.17 Consultation with the trade, the residents of caravan sites or any other body is not required in order to set the fees or approve a Compliance Policy for residential sites. Despite the above, and in consideration of the fact that the Fees Policy and Licensing and Compliance Policy are new proposed documents, it is proposed that a six week consultation period is undertaken to gain any relevant feedback. The consultation will be undertaken with site



owners, residents associations (where known), the general public, the British Holiday and Home Parks Association and the National Association of Park Home Residents.

5 RESOURCE IMPLICATIONS

5.1 There is no additional workload associated with this report. Additional income from those residential caravan sites currently licensed is expected should the proposed amendments to the fees be approved, albeit as per the provisions of the legislation and guidance, this will only allow for recovery of the Council's costs.

5.2 It is estimated that if the draft fees are approved, and the number of caravan sites licensed remains the same (10) an additional £2,970 would be received from residential park home fees per annum. New applications would of course increase any income received, albeit that few if any new residential caravan site applications are envisaged over a five year period.

6 EQUALITIES ASSESSMENT

6.1 The impact of the proposals is perceived to be neutral. An Equality Impact Assessment has been undertaken.

7. ENVIRONMENTAL ASSESSMENT

7.1. An environmental assessment has been undertaken and revealed a neutral impact.

8. CORPORATE PRIORITIES

8.1 What impact, positive or negative, does the subject of this report have on:

8.1.1 The commercialisation agenda: neutral.

8.1.2 Improving customer focus: neutral.

8.1.3 Regeneration or economic development: neutral.

9. CONSTITUTIONAL CONTEXT

9.1 Article of Part 3 Annexe 1 paragraph:

Part 3, Paragraph 1- Full Council hold responsibility for the approval of fees and charges.

Annex 1, Part 1a – Strategy and Resources Committee hold responsibility for the development of the Budget and the Policy Framework



Referred or delegated power?: referred/delegated

10. STATEMENT OF CONFIDENTIALITY

10.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

11.1 The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

- Caravan Sites and Control of Development Act 1960.
- Mobile Homes Act 2013.
- The Mobile Homes (Site Rules) (England) Regulations 2014
- A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime, Department for Communities and Local Government. March 2015.
- Mobile Homes a Fit and Proper Person Test for Park Home Sites Consultation, Ministry of Housing Communities and Local Government. July 2019.
- Department for Communities and Local Government, The Mobile Homes Act 2013, A Guide for Local Authorities on Setting Licence Fees. February 2014.
- LGA, Guidance on Locally Set Licence Fees, 2018.
- BEIS Guidance for Business on the Provision of Services Regulations. October 2009.

12 STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Katy Nicholls, Public Protection Manager and Tanisha Rowswell, Environmental Health Practitioner 22.11.23