



Caravan Sites and Control of Development Act 1960 (as amended)

Policy on the Licensing and Compliance of Residential Park Home Sites

Approved by:

Date:

Review date:

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1.0 Introduction

- 1.1 The Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013) ('the Act') provides a structure for all matters involved in the licensing and control of 'relevant protected caravan sites', more commonly referred to as residential park home sites, by local authorities.
- 1.2 North Devon Council will act in line with the relevant legislation and associated guidance, for example the Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime, issued by the Department for Communities and Local Government.

Residential Sites

- 1.3 The Mobile Homes Act 1983 gives a number of rights and protections to park home owners who occupy a caravan as their own or main residence if it is situated on a protected site. A protected site is a privately owned park where the relevant planning permission or site licence allows the land to be occupied wholly, or in part, for year round residential use. In this situation, the home owner will have the protection of the Act.

Holiday Sites

- 1.4 Where the planning permission permits only holiday use or restricts occupation for a specified period e.g. 11 months of the year, the occupiers will not be protected by the Mobile Homes Act 1983. The site owner is still required to obtain a site licence by applying to North Devon Council.

Mixed Use Sites

- 1.5 A mixed use site is one which is licensed for both residential and holiday use, in other words it is a permanent residential site, on which residence is permitted throughout the year, but which also includes holiday home pitches. It may be regarded as a protected site if there are no restrictions concerning its use.
- 1.6 This policy describes the procedures adopted by North Devon Council when dealing with matters relating to licensed residential park home sites. The policy has been developed in accordance with the provisions of the Act.

2.0 Definition of a Caravan

- 2.1 Section 29 of the Act defines a 'caravan' as any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include:
- any railway rolling stock which is for the time being on rails forming part of a railway system, or
 - any tent.

- 2.2 The Caravan Sites Act 1968 defines a 'twin-unit caravan' for the purposes of Part I of the Act as a structure designed or adapted for human habitation which:
- (a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and
 - (b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer),
- 2.3 It shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the Act by reason only that it cannot lawfully be so moved on a highway when assembled.
- 2.4 For the purposes of Part I of the Act, the expression 'caravan' shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) above if its dimensions when assembled exceed any of the following limits, namely:
- (a) length (exclusive of any drawbar): 65.616 feet (20 metres);
 - (b) width: 22.309 feet (6.8 metres);
 - (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres).

3.0 Approach to Enforcement

- 3.1 The Council intends to focus its enforcement on poorly managed, badly run sites. Such risk based enforcement will serve to deliver a fair and level playing field for businesses operating in the industry.
- 3.2 The Council will look to work with site operators in a fair, consistent, and transparent way as underlined in the principles of the Regulators' Code where possible.

4.0 Fees

- 4.1 North Devon Council's 'Fees Policy for Licensing of Residential Park Homes Sites' provides details of how the Council's fees are determined, their review, and the associated payment procedures.

5.0 Publishing Information

- 5.1 The Act requires a local authority to publish information relating to licensed caravan sites. To comply with the provisions of the Act, the Council makes the following available on its website:
- Fees policy
 - Register of site licences
 - Site rules if provided.

6.0 Licence Applications

6.1 Application forms for a new site licence, the transfer of a site licence, and to vary conditions of an existing site licence are available on the Council's website.

Applications should be made in writing, and accompanied by:

- A site plan
- A site layout plan (with full details of electrical points, water supply, refuse points etc.)
- Proof of right to occupy (e.g. Land Registry Deeds)
- Public Liability Insurance
- Electrical Test Certificate
- Gas Certificate
- Fire Certificate
- Fire Risk Assessment
- Planning Permission
- Proof of financial standing (residential sites)
- Information relating to the management structure of the site (residential sites)
- The appropriate fee (residential sites)

If submitting an online application, payment should be submitted to North Devon Council after the application has been made, in line with the instructions detailed on the form.

Application for a new licence:

6.2 Following the submission of an application, North Devon Council may request additional information in order to determine whether an application should be granted.

6.3 The licence and conditions of licence will be issued within two months of receipt of all information required unless a longer period of time is agreed with the applicant. An annual licence fee is then required, payable on the *(date to be confirmed)*.

6.4 An application can be rejected for a number of reasons:

6.4.1 The applicant has failed to provide information reasonably required of them. A full application including the appropriate fee has not been submitted. The land subject to the application has not been granted permission for use as a caravan site.

6.4.2 Where North Devon Council decides not to issue a licence, it will notify the applicant of the reasons for its decision, and information will be provided regarding their legal right to appeal.

Application for the transfer of a licence:

- 6.5 Following the submission of an application, the Council may request additional information in order to determine whether an application should be granted. It may also seek undertakings from the applicant where deemed appropriate.
- 6.6 North Devon Council will notify the applicant and the proposed licence holder of its decision to approve the transfer or not. Where the transfer is approved the new licence and existing conditions will be provided. Where the transfer is refused, North Devon Council will notify the applicant and the proposed licence holder of its decision and its reason for the decision.

Application to vary the conditions of an existing licence:

- 6.7 Following the submission of an application, the Council will consider the variation requested and may opt to consult residents or the Resident's Association of the site in question. North Devon Council may choose to agree to the variation, recommend a variation of the applicant's proposal and enter consultation with the applicant, or refuse the application.
- 6.8 North Devon Council will notify the applicant of its decision. If its decision is to agree to vary the licensing conditions in accordance with the application, licence conditions will be issued reflecting the variation.

7.0 Conditions

- 7.1 Local authorities have powers to attach licence conditions under Section 5 of the Act. A local authority does not have to wait until it grants a new licence to change the site licence conditions.
- 7.2 The Council will allow a period of 28 days for the site owner's proper consultation of any proposed change.
- 7.3 In formulating site licence conditions, the Council will have regard to the Model Standards published by Government. The most recent being Model Standards 2008 for Caravan Sites in England: Caravan Sites and Control of Development Act.
- 7.4 The Council will be mindful when drafting conditions of the principles set out in the guidance in terms of their reasonableness, clarity and enforceability.

8.0 Fit and Proper Person Requirements

- 8.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the owner/manager of a residential site to be a Fit and Proper Person.
- 8.2 From 1 July 2021, site owners operating a relevant protected site must apply for the relevant person (themselves or an appointed manager) to be included on the Council's register of fit and proper persons. A site owner may only apply if they hold, or have applied for a site licence for the site. Once fit and proper person status is granted, the applicant will be included on the register for up to five years. In some

circumstances applications will be granted subject to conditions, which will be determined on a case by case basis.

8.3 Applications should be made online using the specified application form and should be accompanied by the required supporting documentation. The following will be considered:

- Whether the applicant is competent to manage the site
- Whether the management structure and funding arrangements are suitable
- Whether the applicant has:
 - offences relating to fraud, dishonesty, violence, firearms, drugs or any offence listed in Schedule 3 of the Sexual Offences Act 2003
 - contravened any provision of the law relation to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law
 - contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business
 - harassed any person in, or in connection with, the carrying on of any business
 - within the past 10 years, been personally insolvent
 - within the past 10 years, disqualified from acting as a company director.

It will also consider whether the applicant:

- has the right to work in the United Kingdom and
- is a member of any redress scheme enabling complaints to be dealt with in connection with the management of the site

The management structure of the site

8.4 The Council will request information regarding whether the relevant person has arrangements in place covering issues such as pitch fee collection. It will also examine the availability of those involved in the day-to-day management of the site; their contact details for residents (including out of office or emergency contact details); how complaints about the condition of the site are dealt with, alongside routine and cyclical maintenance, etc.

8.5 The Council will also assess whether the management structure in place gives the person the necessary authority and independence to manage the site effectively and make timely decisions and actions in carrying out their responsibilities. The Council recognises that the management arrangements for sites may differ depending on the size of the business, and it will take this into account.

8.6 Details of the relevant persons experience in managing sites will also be considered.

8.7 The Council will also request right to occupy documentation to determine the site owners interest or legal estate in the land.

The funding arrangements in place for managing the site

- 8.8 The Council will consider whether the site owner has sufficient funds to manage the site. Documentation highlighting how the funding arrangements are sufficient should be submitted alongside the application.

The Council will consider whether the relevant person has the budget and financial authority to spend and make decisions in relation to the management and maintenance of the site. It is recognised that the funding arrangements for sites may differ depending on the size of the business, and this will be taken into account.

Criminal records basic disclosure

- 8.9 The Council will require a criminal record certificate issued under section 113A(1) of the Police Act 1997(1) no more than six months before the date of the application in respect of:

- a) where the relevant person is an individual, the relevant person; and
- b) each individual in relation to whom the applicant is required to provide information under the Regulations.

- 8.10 North Devon Council will consider the application and notify the applicant of its decision, and the relevant notices will be issued accordingly. The Council will make one of three possible decisions:

- To include the relevant person on the register unconditionally
- To include the relevant person on the register subject to certain conditions
- Not to include the relevant person on the register

- 8.11 The Council will establish and keep up to date a public register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area.

9.0 Annual Inspections

- 9.1 Annual inspections will be carried out at each residential caravan site by Officers of North Devon Council. Notification will be provided to the site owner of the proposed inspection date, and an invitation for the site owner or their representative to attend.

- 9.2 Where a breach of licence conditions is identified during the inspection and it is considered that there is an imminent risk of serious harm to the health or safety of anyone on-site, emergency action may be taken by North Devon Council.

- 9.3 Where minor breaches of site licence conditions are identified:

9.3.1 The breaches will be listed in a schedule which will be sent to the site owner. The schedule will give a reasonable timeframe within which remedial works must be carried out. Once that timeframe has expired, a re-inspection will be carried out.

9.3.2 Where remedial works have not been carried out within the timeframe given, consideration will be given to issuing Compliance Notices.

9.4 Where breaches of site licence conditions are identified during an inspection, consideration will also be given as to whether the licence conditions are adequate to control the matter in question. It may be decided that a variation to the licence conditions is required, in which case North Devon Council will enter consultation with the site owner.

10.0 Complaints

10.1 Complaints relating to a residential park home site must ordinarily be communicated to the site owner by the complainant before being considered by North Devon Council, unless the complaint highlights a significant risk of harm to the health or safety of any person or property of site.

10.2 Where a complainant has raised their issue with the site owner and no action has been taken to resolve it, North Devon Council will consider taking steps to intervene and/or investigate where:

- The issue represents a breach of the site licence conditions
- The matter has been addressed at the previous annual inspection but has not been rectified
- The matter has safety implications for the complainant or the residents generally
- The issue indicates that a criminal offence may have been committed e.g., contravention of health and safety requirements.

10.3 Where a complaint does not fall within the scope of these issues, it is likely to be considered a civil dispute between the complainant and site owner. The complainant will be advised to seek civil advice.

10.4 Where it is determined that steps can be taken to intervene and/or investigate, North Devon Council will bring the matter to the attention of the site owner. Alternatively, where an annual inspection is approaching, North Devon Council will consider whether it would be more appropriate to raise/address the issue during this inspection.

10.5 Where the matter is not resolved/addressed by the site owner within the period specified by North Devon Council, consideration will be given to formal action appropriate to the situation e.g., issuing a Compliance Notice or Improvement Notice, or varying conditions on the licence to bring the matter under control.

11.0 Compliance Notices

11.1 The legislation provides a local authority with the power to intervene where they consider there has been a breach of a site licence condition on a relevant protected site, on the basis of a 'risk of harm'. Section 9A of the Act provides powers for local authorities to serve Compliance Notices on the site operator where a breach of a site licence condition has occurred.

- 11.2 Where appropriate, and in situations described within the Policy, Compliance Notices may be issued to the site owner requiring remedial works within a set time-frame. A Notice will:
- Set out the licensing condition breached
 - Detail how the condition has been breached
 - Require the site owner to take specified appropriate steps in order to comply with the licensing condition
 - Specify a time period within which to take those steps
 - Explain the site owner's legal right of appeal.
- 11.3 An invoice will follow the Compliance Notice to recover the expenses incurred by North Devon Council in deciding whether to serve the notice and in preparing and serving the notice. This demand for expenses will be registered as a local land charge which will be removed once the full amount has been recovered.
- 11.4 If North Devon Council decides to revoke or vary a Compliance Notice, it will notify the site owner of that decision.
- 11.5 Once the time limit set in a Compliance Notice has expired, North Devon Council will take steps to ascertain whether or not the requirements of the Notice have been undertaken so as to satisfy the licence conditions. Where a site owner fails to take the specified steps within a Notice, consideration will be given to further formal action i.e. instituting legal proceedings. Where formal action is deemed appropriate, this will be communicated to the site owner.
- 11.6 Following the conviction of a site owner for failing to take the steps required by a Compliance Notice, consideration will be given as to whether the work should be undertaken by North Devon Council. Where this is deemed appropriate, a notice will be served on the site owner which:
- Identifies the land and the relevant Compliance Notice
 - Informs them that the Council intend to enter the land
 - Describes the intended action
 - Notifies them of the name of the person carrying out the work, if it is not North Devon Council
 - Informs them of the dates and time when the action will be taken.
- 11.7 Once these works have been completed, an invoice will be sent to the site owner to recover the expenses incurred in deciding whether to undertake the work, in preparing and serving any notices not already compensated for, and in carrying out the work. This demand for expenses will be registered as a local land charge which will be removed once the full amount has been recovered.

12.0 Emergency Action

- 12.1 Where a condition of a site licence has been, or is being breached, and North Devon Council considers that there is an imminent risk of serious harm to the health or safety of anyone on site, emergency action can be taken by the Council.

12.2 In such circumstances, North Devon Council will contact the site owner notifying them of the situation. If remedial action is not initiated, a notice will be served on the site owner. The notice will:

- Identify the land in question
- Inform the site owner that North Devon Council intends to enter the land
- Describe the intended emergency action
- Notify the site of the name of the person/business instructed to carry out the action where it is not North Devon Council
- Specify the powers of entry under Section 26 of the Act
- Specify the powers to take emergency action under Section 9E of the Act.

12.3 Once emergency action has commenced on behalf of North Devon Council and within 7 days, the Council will serve a notice on the site owner. This notice may be served by fixing it in a prominent place on site or near to the site entrance.

12.4 The notice will:

- Describe the imminent risk of serious harm to the health or safety of anyone on site
- Describe the emergency action taken or which is to be taken by North Devon Council
- State when the emergency action began and when it is expected to be completed
- Notify the site owner of the person/business carrying out the action where it is not North Devon Council
- Explain the site owner's legal right of appeal.

12.5 Following completion of the emergency action and within two months, North Devon Council will issue an invoice to the site owner to recover its expenses incurred in deciding whether to take emergency action, in preparing and serving any notices, and in carrying out the work. This demand for expenses will be registered as a local land charge which will be removed once the full amount has been recovered.

12.6 In circumstances involving action against a site owned by a body corporate where it has been proven that an offence has been committed, all notices and other legal correspondence will be served on an 'officer' of the body corporate (Section 26A(3) of the Act, defines this to mean director, manager, secretary or similar officer).

13.0 Varying/Cancelling/Addition of New Conditions of Licence

13.1 On receipt of an application from a site owner to vary/cancel condition(s) of a site licence or add condition(s) to a site licence, they are required to deliver the original licence and its conditions to North Devon Council. In consideration, North Devon Council will then:

- Ensure that the condition(s) relates to the physical use of the site, its amenities and services, or its management arrangements
- Consult with the Fire and Rescue Authority if necessary
- Consult with the residents if necessary.

- 13.2 Where North Devon Council agrees to vary/cancel condition(s) or add condition(s) to the site licence, the original site licence and a copy of the new conditions will be issued to the site owner with a request for them to be displayed on site.
- 13.3 Should North Devon Council not agree to vary/cancel condition(s) or add condition(s) to the site licence, formal notification of its decision and reasons for that decision will be issued to the applicant.
- 13.4 Where North Devon Council seeks to vary/cancel condition(s) or add condition(s) to a site licence in situations described within this Policy it will:
- Be able to justify the alteration proposed
 - Consult with the site owner for a minimum period of 28 days
 - Consult with the Fire and Rescue Authority (or other organisation) if necessary
 - Consult with the residents if necessary.
- 13.5 Following consultation, North Devon Council will decide whether or not to vary/cancel condition(s) or add condition(s) to a site licence, and it will notify the site owner of its decision. Where a licence has been varied on North Devon Council's initiative it will provide the site owner with:
- An explanation of its reasons for making the variation
 - A copy of the varied conditions of licence
 - Details of the site owner's legal right to appeal.