



# 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 planning 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 fees were determined, their review, payment procedures and the fees themselves.

### **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 accompanied by the appropriate fee or online using the relevant application form. If submitting an online application, payment should be submitted to North Devon Council during the online process.

### *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 Annual Inspections**

8.1 Annual inspections will be carried 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 representation to attend.

8.2 Where a breach of licensing 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.

8.3 Where minor breaches of site licensing conditions are identified:

8.3.1 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.

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

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

## **9.0 Complaints**

9.1 Complaints relating to a caravan site must 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.

9.2 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.

9.3 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.

9.4 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 the inspection.

9.5 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 of licence to bring the matter under control.

## **10.0 Compliance Notices**

10.1 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.

10.2 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.

10.3 An invoice will follow the Compliance Notice to recover the expenses incurred by

North Devon Council in deciding 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. The invoice will include:

- The total expenses
- A detailed breakdown of the expenses
- The interest rate to be charged.

10.4 If North Devon Council decides to revoke or vary a Compliance notice it will notify the site owner of that decision.

10.5 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.

10.6 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.

10.7 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. The invoice will include:

- The total expenses
- A detailed breakdown of the expenses
- The interest rate to be charged
- An explanation of the legal right of appeal.

## **11.0 Emergency Action**

11.1 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.

11.2 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.
- 11.3 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.
- 11.4 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.
- 11.5 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. The invoice will include:
- The total expenses
  - A detailed breakdown of the expenses
  - The interest rate to be charged
  - An explanation of the site owner's legal right of appeal.
- 11.6 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).

## **12.0 Varying/Cancelling/Addition of New Conditions of Licence**

- 12.1 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.
- 12.2 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.
- 12.3 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.
- 12.4 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.
- 12.5 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.