

# Crawley Borough Council

## Report to Licensing Committee

12 June 2023

### Introduction of a Mobile Homes (Caravan Site) Licensing & Fees Policy

Report of the Head of Community Services - HCS/059

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#### 1. Purpose

- 1.1. This report seeks the approval of a Caravan Site Licensing Policy, and informs the Licensing Committee of the provisions of the Mobile Homes (Site Licensing (England) Regulations 2014, and the introduction of the fit and proper person test for owners/managers of permanent residential caravan sites under the Mobile Homes (Requirement For Manager of Site to be fit and proper person) England Regulations 2020, and its inter relationship with the Mobile Homes Act 2013 and to approve the proposed fees.
- 1.2. The changes in legislation governing “relevant protected sites”, i.e. permanent residential mobile home sites, following the passing of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 – (‘the Regulations’) require that a Local Authority must be satisfied that the owner of a mobile home site is a fit and proper person to manage the site, or that a person appointed by the owner to manage the site is a fit and proper person to do so. The local authority also has the power to appoint a fit and proper person to manage the site, with the owner’s consent.
- 1.3. The Regulations require that should a Local Authority intend to charge fees, it must prepare and publish a Fee Policy. In the case of Crawley Borough Council, this Policy also incorporates the “fit and proper person” requirement and reference to conditions applied to sites,

#### 2. Recommendations

- 2.1 The Licensing Committee is recommended to:
  - a) Note the statutory powers local authorities have under the Regulations.
  - b) Adopt the proposed Mobile Homes (Caravan Site) Licensing and Fees Policy as set out within **Appendix A** to report HCS/059.
  - c) Endorse and delegate authority to the Head of Community Services for the amendment of the calculation of fees in response to any surplus or deficit, and the making of minor amendments to the Policy, once adopted, to reflect changes in legislation or guidance and codes of practice where a full review of the policy is not warranted and that this be reflected in the Head of Service sub-delegation scheme.

### 3. Reasons for the Recommendations

- 3.1. To ensure compliance with legislative requirements, regulation and fostering transparency and openness in decision making.
- 3.2. To allow the Local Authority to charge appropriate fees in accordance with the Regulations.

### 4. Background

- 4.1. Under the Community Services Directorate, the Licensing Team is responsible for ensuring good standards in this sector, protecting the health, safety and some rights of the residents.
- 4.2. A licence is not required to operate a caravan site if any of the following apply:
  - Forestry workers, builders, travelling showmen or seasonal workers (like fruit pickers) stay in caravans on the site
  - The site is 5 or more acres and there are 3 or less caravans there for 28 days or less a year
  - The site and owner is a member of an organisation like a caravan club and have a caravan exemption certificate
  - The site is approved by an organisation with a caravan exemption certificate
  - Members of an exempted organisation stay in their caravans on the site
  - The site is used for a social get-together of caravan club members (a 'rally').
- 4.3. A licence cannot be granted unless and until the relevant planning permission is in place.
- 4.4. The Regulations require that where a licence is required, all owners or managers of such sites are fit to manage the sites. As a result, the Council needs a procedure for ensuring this and for charging appropriate fees to cover our costs. The Mobile Homes Act 2013 requires that should a local authority intend to charge fees, it must prepare and publish a Fee Policy. The borough does not currently have any sites which are licensed but in order to respond to applications and meet the requirements of the Regulations, the proposed Mobile Home Licensing and Fees Policy is proposed to help regulate such. (**Appendix A**)
- 4.5. A "relevant protected site" is a permanent residential caravan (mobile home) site which requires a licence but which is not exempt on the basis of being solely for holiday purposes or incapable of being used all year round. The Regulations state that a relevant protected site cannot operate unless the Local Authority is satisfied that the Manager of it qualifies as a "fit and proper" person.
- 4.6. A site owner under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI 2020/1034) ("the Regulations") must apply to their local authority for the relevant person (themselves or their appointed manager) to be added to the register of fit and proper persons managing sites in their area ("the Register").
- 4.7. The site owner may only apply to be added to the register if they hold, or have applied for, a site licence for the site. This provision also applies where the site owner or site manager is a registered company.
- 4.8. The Regulations permit the local authority to determine the fee for an application or registration for someone to be added to the register. The fee must be included with the application and failing to include this may mean that the site owner is in breach of the requirements of the Regulations.

## **5. Information and Supporting Analysis - matters to be considered in the test for a Fit and Proper Person**

- 5.1. When considering whether a person is 'fit and proper' the local authority must have regard to the suitability of the person concerned ('the relevant person'). Schedule 3 paragraphs 2 to 4 of the Regulations make reference to those matters that must be considered by the local authority as part of any application. These include:
- a) Whether the relevant person is able to secure the proper management of the site, including the history of management and financial arrangements;
  - b) criminal convictions relating to fraud, dishonesty, violence or contraventions of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
  - c) has harassed any person in, or in connection with, the carrying on of any business, been insolvent or disqualified from being a director of a company; and
  - d) whether any other local authority has rejected an application for the responsible person to be included in a register;
  - e) the Local Authority may also have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the relevant protected site or proposed relevant protected site (as the case may be).

The Local Authority can also consider any evidence as to any other relevant matters.

### **Appeals**

- 5.2. Where the Local Authority may seek to remove the relevant person from the register or to impose further conditions a Notice of Proposed Action will be issued in accordance with the Regulations. Again, any relevant person may make written representations within 28 days of such a notice being issued.
- 5.3. A person on whom a final decision notice or a notice of action is served may appeal to a First-tier Tribunal (FTT) against the decisions made.
- 5.4. No compensation may be claimed for loss suffered, pending the outcome of the appeal, in consequence of the Local Authority making a final decision or taking action relevant to Regulation 8(1)(a), (b) or (c).
- 5.5. Furthermore, the Local Authority may determine in certain cases to attach licence conditions on licences including the list below. Conditions can also be appealed via the Magistrates Court.
- restrictions on when caravans can be placed on the site
  - restrictions on the total number of caravans on the site at any one time
  - controls on the types of caravans allowed on the site
  - positioning of caravans, structures, vehicles or tents
  - preservation and enhancement of the land, including bushes and trees
  - a requirement that fire safety and firefighting systems are provided and maintained as part of a fire safety and risk assessment process.
  - provision of sanitary and other facilities and their maintenance
  - a requirement for work to be carried out to the land.

## **Register**

- 5.6. The Regulations require a Local Authority to establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area. The Register must open to inspection by members of the public at the offices of the local authority by appointment during normal office hours.
- 5.7. The authority must also publish the register online and the contents of the register will be in accordance with the Regulations.
- 5.8. A person's inclusion in the register has effect for a maximum period of 5 years and full details will be included on the Register

## **Fees**

- 5.9. Regulation 10 permits the Local Authority to charge a fee for the processing of applications. A Local Authority is not permitted to make a profit from the fees and therefore the proposed fees are based on the cost of administering the regime. This does not include the costs of enforcement, for which charges may be separately levied when enforcement action is necessary.
- 5.10. The Regulations state that the same fee must be charged for all FPP tests, regardless of the size of site or reputation of the owner or manager.
- 5.11. A Pan Sussex Group have calculated the fees for sites and the costs of administering these tests and calculate that it will take, on average for these tests. In most cases the person would remain on the Register for 5 years and after that time, or when there was a change of management or ownership, a new fee would be payable.
- 5.12. The authority may also decide the amount and frequency of any additional payments required by way of an annual fee. These are included within the proposed Policy, and include fees associated with administering and ensuring compliance with the licensing regime.
- 5.13. The proposed fees will be reviewed each year to determine their accuracy as part of the Council's annual fees and charges setting process, or in the case of an interim review, this would be considered in line with the Council's Constitutional framework.
- 5.14. Where the Local Authority has, with the occupier's consent, appointed a person to manage a site, the Local Authority will recover from the occupier the reasonable costs incurred or to be incurred in making the appointment in accordance with Regulation 10.

## **Offences**

- 5.15. An owner (occupier) of land commits an offence if he causes or permits any part of the land to be used as a "relevant protected site" without the manager of the site being registered with the local authority as a fit and proper person.
- 5.16. An applicant also commits an offence if he withholds information from a registration application or includes false or misleading information in a registration application or fails to comply with a condition imposed under Regulation 6(2)(b) or Regulation 8(1).
- 5.17. An owner (occupier) of land who is guilty of an offence is liable on summary conviction to a level 5 fine (unlimited).

- 5.18. Where an owner (occupier) of land who holds a site licence in respect of that land contravenes the relevant Regulations, the FTT may, on application by the authority, make an order revoking the site licence in question on the day specified in the order. If this owner is convicted of three such offences, the court may revoke the Licence.

## **6. Implications**

- 6.1. Staffing - There will be an increase in officer workloads as a result of the adoption of a suitable Policy, to include fees. This cost of administering such and compliance will be met via licence fees.
- 6.2. Financing - The Licensing Service is self-financing, and the costs associated with the service are recovered from fees and charges arising from this regime
- 6.3. Equality - Councillors must ensure that they exercise their decision-making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice. Pursuant to Section 149 of the Equality Act 2010, the Council when making decisions must have regard to the 'public sector equality duty'. In summary, this means that the Council must, in the exercise of its functions, have due regard to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
  - b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.
  - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The characteristics protected by the Equality Act are:

- age
- disability
- gender reassignment
- marriage/civil partnership
- pregnancy/maternity
- race
- religion/belief
- gender and sexual orientation.

## **7. Background Papers**

- The Mobile Homes Act 2013
- Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020
- MHCLG Guides for Local Authorities to the Fit and Proper Person Test Regulations and Fees Policy

### **Report author and contact officer:**

Kareen Plympton, Team Leader for Health, Safety and Licensing  
Kareen.plympton@crawley.gov.uk  
01293 438023