

REPORT BY DIRECTOR OF ECONOMIC GROWTH & NEIGHBOURHOOD SERVICES.

TO:	Licensing Committee		
DATE:	12th July 2022	AGENDA ITEM:	
TITLE:	CARAVAN SITE LICENSING: FIT AND PROPER PERSON DETERMINATION POLICY & CARAVAN SITE LICENSING FIT & PROPER PERSON FEES POLICY		
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1. PURPOSE AND SUMMARY OF REPORT

- 1.1 Section 8 of the Mobile Homes Act 2013 ('the Act') introduced a power for the Secretary of State to create a requirement for residential caravan sites (referred to as relevant protected sites in the Act) in England to be managed by a fit and proper person. In 2017 the Government reviewed the Mobile Homes Act 2013 and the review concluded that more needed to be done to protect the interests of those living on residential caravan sites. One of the outcomes of the review was to introduce the previously not enacted fit and proper test, subject to a technical consultation.
- 1.2 Between 25th July 2019 and 17th September 2019 the technical consultation on the fit and proper person test gathered information from stakeholders to ensure the test would cover the required elements and target and remove the worst offenders in terms of poor site management without unduly burdening responsible owners.
- 1.3 Following the end of the consultation the Regulations were developed and came into force on the 23 September 2020. They allowed local authorities until 1 July 2021 to prepare their processes and get ready to receive applications, which must be made by all existing residential site owners between 1 July 2021 and 1 October 2021. The only exceptions to the Regulations are non-commercial family occupied sites.
- 1.4 Those applying to be on the register of fit and proper persons must show that they are able to secure the proper management of the site; demonstrating, amongst other things, a history of compliance with the site licence, a good history of maintenance of the site, that they have a sufficient level of competence to manage the site and that they have not been convicted of a number of offences the regulations deem relevant.

- 1.5 Following a successful application, a person may be added to the fit and proper register for a period the Council deems appropriate, but for no longer than five years. The Council may also decide to include a person on the register subject to conditions if it would only be satisfied that the relevant person would meet the fit and proper requirement if the condition(s) were complied with.
- 1.6 There is no statutory requirement that a determination policy be implemented by a local authority, however, having a robust determination policy will assist applicants by clearly stating what is expected of them in order to comply with the statutory requirements placed upon them. Further to this, having such a policy places the Council in a stronger position in the event of any legal action taken by or against it on matters when exercising its function under the regulations. The Council is required to publish a fees policy if it wishes to charge fees for these applications and the Council will be charging a fee to cover the costs incurred in the administration and enforcement of the scheme. Details are attached at **Appendix RS-2**.
- 1.7 The purpose of this report is to submit a new Caravan Site Licensing Fit & Proper Person Determination policy and Caravan Site Licensing Fit & Proper Person Fees policy for approval by members both of which will have immediate effect.

Appendix RS-1 - Caravan Site Licensing: Fit & Proper Person Determination Policy

Appendix RS-2 - Caravan Site Licensing: Fit & Proper Person Fees Policy

Appendix RS-3 - Climate Impact Assessment

2. RECOMMENDATIONS - DECISIONS/ACTIONS REQUIRED

- 2.1 That the new Caravan Site Licensing Fit & Proper Person Determination policy and Caravan Site Licensing: Fit & Proper Person Fees policy, as attached at Appendix RS-1 and Appendix RS-2, respectively, be approved for implementation with immediate effect.

3. POLICY CONTEXT

- 3.1 Under the Caravan Sites and Control of Development Act 1960 and Mobile Homes Act 2013, Reading Borough Council, as the local authority, has responsibility for:

- Issuing grants/variations/transfers of licences for the three main types of caravan sites:
 - Relevant Protected Sites (Residential)
 - Holiday (Static)
 - Holiday (Touring)
- Determining whether a site manager for a relevant protected site is fit and proper person.

- Maintaining public registers of:
 - All sites licensed by Reading Borough Council
 - All individuals deemed Fit and Proper Persons (Residential Sites)
 - All site rules
- Enforcing the provisions of the above Acts.

3.2 On 26th March 2013 the Mobile Homes Act 2013 received Royal Assent. Section 8 of this Act inserted sections 12A to 12E into the Caravan Sites and Control of Development Act 1960. These sections require the manager of a relevant protected site to be a fit and proper person to the satisfaction of the local authority and make it an offence for an occupier of land to cause or permit any part of their land to be used as a relevant protected without such a fit and proper person, among other offences. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 came into force in stages, with the first stage on 01st July 2021 and the final stage to 01st October 2021. These regulations brought sections 12A to 12E of the Caravan Sites and Control of Development Act 1960 into force.

3.3 Licence fees for caravan site activities are set locally and must be applied to the administration and enforcement costs, only.

4. THE PROPOSAL

4.1 Current Position:

4.2 There are currently no policies that cover The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

4.3 Option Proposed:

4.4 Approval is sought to implement the new Caravan Site Licensing Fit & Proper Person Determination policy and Caravan Site Licensing Fit & Proper Person Fees policy attached at **Appendix RS-1** and **Append RS-2** respectively.

4.5 The new Caravan Site Licensing Fit & Proper Person Determination policy and Caravan Site Licensing Fit & Proper Person Fees policy will come into effect, immediately. It is appreciated that the regulations are already in force, however, due to the considerable and on-going pressures that the COVID-19 pandemic has placed on the Licensing team, and the Council as a whole, this matter is, regrettably, only being forwarded for consideration, now. All site owners have submitted their applications and are pending determination. Caravan site licensing is a very small area of work, with the Council only having issued 4 site licences.

4.6 Other Options Considered:

4.7 Not implementing a determination policy and/or fees policy. These options were discounted because we consider that having a robust determination policy will assist applicants by clearly stating what is expected of them in

order to comply with the statutory requirements placed upon them. Further to this, having such a policy places the Council in a stronger position in the event of any legal action taken by or against it on matters when exercising its function under the regulations. For example, via complaints to the Local Government and Social Care Ombudsman and judicial review. The Council is required to publish a fees policy if it wishes to charge fees for these applications and the Council will be charging a fee to cover the costs incurred in the administration and enforcement of the scheme.

5. CONTRIBUTION TO STRATEGIC AIMS

5.1 This policy and its implementation contribute to the following strategic aims in the Council's Corporate Plan 2021-22:

- Tackling inequality in our society, to ensure everyone has an equal chance to thrive whatever their economic, social, cultural, ethnic or religious background.

5.2 The aim of these policies are to ensure better accountability of relevant protected site managers, enabling the Council to intervene when we are aware that there may be failings in the management of a relevant protected site that doesn't fall within the existing enforcement powers that only allowed the Council to take action when site licence conditions were breached.

6. ENVIRONMENTAL AND CLIMATE IMPLICATIONS

6.1 There are no specific environmental or climate implications to this policy.

6.2 The Climate Impact Assessment is attached at **Appendix RS-3**.

7. COMMUNITY ENGAGEMENT AND INFORMATION

7.1 A public consultation was hosted on the Reading Borough Council website. The consultation period ran from 25th April 2022 until 23rd May 2022 and no responses were received.

8 EQUALITY IMPACT ASSESSMENT

8.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.2 The aim of these policies is to provide information to both applicants and residents of relevant protected sites, setting out the framework of the regulations and ensuring that those affected by the regulations know what

the Council will consider when determining whether a site manager is a fit and proper person. The implementation of these regulations will increase accountability of a site manager and therefore promote greater and more constructive interactions between site managers and their residents, leading to a reduced chance of a culture of discrimination, harassment, victimisation etc.

8.3 There are no foreseen negative impacts on equality.

9 LEGAL IMPLICATIONS

9.1 These are regulations that the Council has a duty to implement. Failure to do so may result in it being challenged when exercising its functions under the Regulations and the Mobile Homes Act 2013, for example, via complaints to the Local Government and Social Care Ombudsman and judicial review.

10. FINANCIAL IMPLICATIONS

10.1 The financial implications arising from the proposals set out in this report are set out below: -

10.2 Revenue Implications

	2021/22	2022/23	2023/24
Employee costs	£668	£668	£668
Other running costs	£0	£0	£0
Capital financings costs	£0	£0	£0
Expenditure	£668	£668	£668
Income from:			
Fees and charges	£668	£668	£668
Grant funding	£0	£0	£0
(specify)			
Other income	£0	£0	£0
Total Income	£668	£668	£668
Net Cost(+)/saving (-)	£0	£0	£0

10.3 Capital Implications

Capital Programme reference from budget book	2021/22	2022/23	2023/24
Proposed Capital Expenditure	£0	£0	£0
Funded by			
Grant (specify)			
Section 106 (specify)			
Other services			
Capital Receipts/Borrowing			
Total Funding	£0	£0	£0

10.4 Value for Money (VFM)

The application fee charged covers the cost of administration and enforcement. Relevant Protected Site Fit and Proper Person fees are set locally and must be transparent and reasonable.

10.5 Risk Assessment

The Council is not required to publish a determination policy statement, however, we have determined that doing so provides greater clarity to applicants as to what is required and expected of them and places the Council in a more robust position in the event of any legal action taken by or against it on matters concerning these regulations.