

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO HEALTH & HOUSING COMMITTEE

Agenda Item No.

meeting date: 5 JUNE 2014
title: MOBILE HOMES ACT 2013
submitted by: JAMES RUSSELL
principal author: HEAD OF ENVIRONMENTAL HEALTH SERVICES

1 PURPOSE

1.1 To inform Committee of the implications of the Mobile Homes Act 2013 in relation to sites in Ribble Valley and consider establishing a site licensing policy and fee structure for the licensing of 'relevant protected sites'

1.2 Relevance to the Council's ambitions and priorities:

- Council Ambitions – To promote and support healthy environmental, economic and social well-being of people who live, work and visit the Ribble Valley.
- Community Objectives - This document will contribute to two of the three stated ambitions, namely:
 - “to help make peoples lives safer and healthier”; and
 - “to protect and enhance the existing environmental quality of our area”.
- Corporate Priorities – To 'promote a healthier environment and lifestyle' and 'ensure a well managed Council providing efficient services based on identified customer needs'.
- Other Considerations – None

2 BACKGROUND

2.1 The Caravan Sites and Control of Development Act 1960 (the Act) is amended by the Mobile Homes Act 2013, the changes of which came into force on 1 April 2014. These include powers for local authorities to charge fees for their licensing functions in respect of 'relevant protected sites'

2.2 The Act requires all caravan or 'park home' sites to be licensed by the local authority. The provisions of the Act have been in place for more than 50 years and were found to be outdated and lacking to ensure 'effective management and maintenance' of sites.

2.3 The current system has been found to be open to abuse with licences changing hands rapidly or being transferred to persons who are unable to manage the site. This has led to local authorities not always being able to take timely action where licensing conditions are not complied with, or, the licence holder not being qualified to do what they are required to do.

3 ISSUES

3.1 The Mobile Homes Act 2013 has made changes to the law on 'park' homes and marks the Government's commitment to giving better rights and protection to park home residents whilst intending honest professional sites flourish. The Act also amends the Mobile Homes Act 1983 and introduces enhanced protection and regulation of site agreements in relation to 'relevant protected sites'.

3.2 The new licensing provisions enable local authorities to monitor site licence compliance more effectively and provide tools to take enforcement action where site owners are not managing and maintaining their sites and its services. New powers allow Local authorities to;

- serve Compliance Notices and have power to take emergency action where there is considered to be an imminent risk of serious health and safety;
- require a licensee to apply to be considered 'a fit and proper' person and a local authority to be satisfied that the licensee is a 'fit and proper' person to manage a 'relevant protected site in their area, and;
- create and publish a register of these persons.

The changes are intended to better safeguard resident's health and safety and protect values of their park homes.

3.3 In considering whether to grant a licence or approve a transfer of an existing one, a local authority must have regard to both the proposed management structures to be put into place by the new licence holder and any outstanding licensing issues with the existing one. Licences may now be refused until arrangements can be made to satisfactorily resolve any issues, including accepting legally binding undertakings to pay outstanding debts, or carry out site works required under the licence.

3.4 In addition, a local authority has the option to introduce and charge fees for the following

- Considering applications for the use or transfer of a site licence;
- Considering applications for altering conditions in a site licence, and;
- Administration and monitoring of site licences

3.5 Where a local authority decides to introduce and charge fees, these are levied as an annual fee, the fees determined must be published in the authorities Fees Policy document and must be transparent and reasonable. The Department of Communities and Local Government has produced informal guidance to local authorities in setting reasonable fees for their licensing functions for park home sites. Before a local authority can charge a fee, it must prepare and publish a fees policy.

3.6 When fixing a fee a local authority;

- Must act in accordance with their fees policy;
- May fix different fees in different cases
- May determine that no fee is required in some cases

3.7 Currently the Council has 17 licensed caravan sites. However, the definition of 'relevant protected site' excludes sites which have relevant planning permission and/or the site licence being;

- Granted for holiday use only, or;
- Subject to conditions that there will be times of year when no caravan may be stationed on the land for human habitation (ie the unit cannot be occupied).

The above exemption, excludes almost all of our sites, which are generally granted for holiday purposes and/or have stipulated closed periods. As such it appears we have potentially only 2 sites, which meet the criteria as 'relevant protected sites' being 'Shireburn' Waddington Road, Clitheroe and 'Three Rivers', Eaves Hall Lane, West Bradford.

3.8 A local authority is permitted to set a fee that will 'cover all time taken to establish the information required to make an informed decision will be allowed to be included in the licence fee, whether or not the transfer of licence is allowed'. A local authority cannot charge separately for advice or work in advance of an application, but can build into a fee structure for application costs resulting from pre-application advice.

3.9 It is at the Local Authority's discretion whether to charge for all or any aspects of site licensing. In reaching its decision, it is suggested the local authority take the following points into account;

- Consideration be given to a Council's existing policy towards charging generally. If a council tends not to charge, they will have to justify charging in this case and re-evaluate charging for other licensable premises/activities;
- Homeowners may argue that they already pay for council services in terms of council tax and therefore the cost of this licensing function should be covered in this;
- If a Council charges, there will be a legitimate expectation from homeowners that they will get a better licensing service over and above what they currently receive;
- Charging will provide a revenue stream to fund licensing functions. As many local authorities currently do not have the resources to provide the service they may want to, for licensing and monitoring, the increased funding could provide an improved service.

3.10 The following 4 categories of licensing are suggested to be considered in terms of probable officer activities in setting fees;

- **'First time' new licence** application –
 - o An inspection of site, at planning stage or on immediate planning approval to discuss requirements with site owner;
 - o A second visit, following the issue of a new licence, to check conditions and site occupation
- **Annual licence fee** –
 - o A pre-programmed full site inspection;
 - o A follow-up inspection to check compliance following programmed inspection

- **Application to amend a licence –**
 - o A site visit to assess specifics of the application;
 - o Consideration of any implications for the licence or its conditions and to assess whether undertakings need to be given
- **Application to transfer a licence –** generally, no site visit required as the application should be a desktop and administrative exercise only, assuming scheduled inspection undertaken with regard to the annual licence fee.

Consideration should be given to frequency of inspection/monitoring visits for a typical site. Fees can also be banded based ‘on the risk’ of typical size or type of site, number of visits being varied accordingly.

3.11 A local authority may also consider to exempt the following types of sites;

- **Sites based on a minimum size –** this may be for single units, or sites of size less than a given figure of say 3 or 5. The rationale being that they are low risk, tend to be family run sites which are not considered commercially viable on their own as a business, are rarely subject to complaints and the cost of inspection is outweighed by the cost of administering any charges;
- **Sites not run as a business –** this would include family run sites and typical small Gypsy Roma and Traveller sites. Consideration needs to be given how the Council will qualify ‘family site’ and the evidence required to show that not considered run as a business if challenged;
- **Gypsy Roma and Traveller (GRT) sites –** some local authorities currently have little involvement with these sites and some do not impose conditions. The guidance reminds local authorities that even if no fees are charged, the local authority has a duty to licence such sites and has powers of enforcement. There being an expectation that enforcement action will be taken – in particular in respect of fire safety where the enforcing authority usually rests with the local authority and not the fire service under the Fire Safety Order (whereas on traditional residential park home sites the order is relevant for common parts). It is suggested that a local authority may consider the most sensible option to assess GRT sites against the same criteria as the traditional sites. So all sites of a minimum size (say less than 5) are exempt from charging, whilst all sites including GRT sites above a certain size are included.

3.12 Because of only two potential ‘relevant protected sites’ currently licensed within Ribble Valley, both being of a similar size, in order to keep the process as simple as possible, I would ask Committee to consider the introduction of the following recommended fee structure and exemption, subject to publishing a suitable fee policy, as follows;

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| • | First time ‘new’ Licence fee (based on 12 hours) | £ 440 |
| • | Annual Licence Fee (based on 6 hours) | £ 220 |
| • | Amendment of site licence (based on 6 hours) | £ 220 |
| • | Transfer of Licence (based on 4 hours) | £ 145 |

In addition, to reflect current guidance, I would recommend that the following be exempt from payment;

- Sites for 5 or less traditional residential park or Gypsy Roma and Traveller units.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – There are no significant implications.
- Technical, Environmental and Legal – There are no environmental or legal implications. The Council requires to determine its strategy with regards to the implementation of these new provisions;
- Political & Reputation – This document permits the Council to consider and determine its intended approach in relation to an important local statutory function.
- Equality & Diversity – There are considered to be no significant implications.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Considers whether Committee wishes to introduce charges in relation to the licensing of 'relevant protected' caravan sites taking into account the factors contained in paragraph 3.9;

and If charges are to be introduced;

5.2 Considers and approve the introduction of the fees set out in paragraph 3.12 subject to publishing a suitable fee policy, and;

5.3 Considers and approves the exemption of sites for 5 or less traditional residential park or Gypsy Roma and Traveller units.

JAMES RUSSELL
HEAD OF ENVIRONMENTAL HEALTH SERVICES

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

- Mobile Homes Act 2013
- Dept. of Communities & Local Government – Mobile Homes Act 2013 'Guides to Local Authorities' - 'New licensing enforcement tools', 'Setting licensing fees' and park Homes: Site Licensing'

For further information please ask for James Russell, extension 4466

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