

**TELFORD & WREKIN COUNCIL**

**LICENSING COMMITTEE – 29<sup>th</sup> June 2021**

**MOBILE HOMES: FIT & PROPER PERSON TEST & FEES POLICIES**

**REPORT OF ANITA HUNT PUBLIC PROTECTION GROUP MANAGER**

**LEAD CABINET MEMBER – CLLR RICHARD OVERTON**

**PART A) – SUMMARY REPORT**

**1. SUMMARY OF MAIN PROPOSALS**

- 1.1 Under the Caravan Sites and Control of Development Act 1960 all residential mobile home site owners require a licence from the Council to operate. The Mobile Homes Act 2013 made amendments to the 1960 “Act” which introduced changes to the procedures and penalties for enforcement of site licence conditions. Section 8 of the 2013 Act relates to the requirement for the manager of the site to be a fit and proper person.
- 1.2 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 – (‘the Regulations’) set out that a site owner must make an application to the Council between 1<sup>st</sup> July – 31<sup>st</sup> October 2021 for a relevant person to be assessed as a fit and proper person.
- 1.3 The ‘Fit and Proper’ requirement is to ensure that those responsible for operating the site licence and managing the site are of sufficient integrity and good character to be involved in the management of a regulated site for mobile homes and that as such they do not pose a risk to the welfare or safety of persons occupying mobile homes on the site. These new Regulations do not apply to family-occupied sites which are not operated on a commercial basis.
- 1.4 Applications must be accompanied by a fee set by the Council.

- 1.5 Members of the Licensing Committee are requested to approve the Council's draft Mobile Homes Fit and Proper Policy attached at Appendix A and the draft amended Part 9 of the Mobile Homes Fees and Charges Policy 2021-2022 attached at Appendix B.

**2. RECOMMENDATIONS**

2.1 It is recommended that Members

2.1.1 Approve the Mobile Homes Fit and Proper Policy attached at Appendix A.

2.1.2. Approve the amendments to the Mobile Homes Fees and Charges Policy 2021-2022.

2.1.3 Approve that these policies take effect from 1st July 2021

### 3. SUMMARY IMPACT ASSESSMENT

|   |   |  |
|---|---|--|
| <b>COMMUNITY IMPACT</b>                 | Do these proposals contribute to specific Co-Operative Council priority objective(s)? |  |
|   | Yes   | <p><i>Insert Council Priority</i></p> <p><i>Every child, young person and adult lives well in their community</i></p> <p><i>All neighbourhoods are a great place to live</i></p> <p><i>Everyone benefits from a thriving economy</i></p> <p><i>A community-focussed innovative council providing efficient, effective and quality services</i></p>   |
|   | Will the proposals impact on specific groups of people?                               |  |
|   | Yes   | It will primarily impact the owners / manager of mobile home sites and residents of mobile homes sites who are predominately aged 55 plus.   |
| <b>TARGET COMPLETION/DELIVERY DATE</b>  | July 2021   |  |
| <b>FINANCIAL/VALUE FOR MONEY IMPACT</b> | Yes   | <p>In setting the fees and charges the Council has taken into account both national guidance, Department for Communities, and the Local Government “ A Guide for Local authorities on setting site licensing fees”. The aim of this is to ensure that the setting of the various fees is proportionate and transparent. In line with this the legislation only allows Councils to set fees and charges to recover costs incurred.</p> <p>The only amendment to fees and charges under the Mobile Homes Fees &amp; Charges Policy as a result of this report is to add in the fee for the requirement for a Fit &amp; Proper Application fee. This fee has been set at £310 on a cost recovery basis. All other license fees for Mobile Homes remain the same and are set out in section 5 of Appendix B.</p> <p>MLB 14.06.21</p> |

|   |     |   |
|---|-----|---|
| <b>LEGAL ISSUES</b>                             | Yes | <p>A policy document is an essential part of the process of administering the licensing regime in respect of Caravan Parks. Without such a document decisions made under the scheme could be challenged as arbitrary. The draft policy is intended to provide a comprehensive guide both for applicants and decision makers. It has been compiled with regard to government Regulations and Guidance issued. It is important to remember that any policy must be flexible and decision makers can depart from it in exceptional circumstances giving reasons for their decisions.</p> <p><i>RH 21.06.21</i></p> |
| <b>OTHER IMPACTS, RISKS &amp; OPPORTUNITIES</b> | Yes | <p>The following key risks and opportunities associated with this action have been identified and assessed and arrangements will be put in place to manage them.</p> <p><i>i)The Financial risks to the Council in the event of a legal challenge to the change in Policy and or Conditions.</i></p>  |
| <b>IMPACT ON SPECIFIC WARDS</b>                 | Yes | <p><i>This report has implications for all/named wards in the Borough.</i></p>  |

## **PART B) – ADDITIONAL INFORMATION**

### **4. INFORMATION**

4.1 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'). The Regulations make reference to those matters that must be considered by the local authority as part of any application. The overriding consideration being whether the relevant person is able to secure the proper management of the site.

This includes, but is not limited to;

- compliance with the site licence;
- the long term maintenance of the site;
- whether the relevant person has a sufficient level of competence to manage the site;
- the management structure and funding arrangements for the site (or proposed management structure and funding arrangements).

4.2 Other matters to be considered are whether the relevant person has been convicted of any of the offences prescribed in the Regulations or been declared personally insolvent.

4.3 The local authority may also have regard to any evidence as to any other relevant matters.

4.4 Once an application has been received the local authority may:

- grant the application unconditionally;
- grant the application subject to conditions;
- refuse the application.

4.5 Schedule 4 to the Regulations lays down the procedures to be followed where the decision is to reject an application, or to grant it conditionally. These include serving decision notices and notices of action and the rights of applicants to make written representations.

4.6 Conditions can relate to any factors which are relevant to the person's competence to manage the site, the management structure, or funding arrangements for the site, an associated person's influence, and any other relevant factors.

- 4.7 The applicant is permitted to appeal against any decisions served by the Local Authority by making an application to the First-tier Tribunal (Property Chamber) (“the tribunal”) within specific timeframes set by the tribunal. These decisions could include:
- a) including the relevant person on the register for an effective period of less than 5 years;
  - b) including the relevant person on the register subject to conditions; and
  - c) refusing the application.
- 4.8 The Council has set out its draft policy for dealing with such applications under the Regulations and has taken into account the Mobile Homes: a guide for local authorities on the fit and proper person test.
- 4.9 The Regulations provide powers for local authorities to charge fees in respect of applications to be included in the register of fit and proper persons.
- 4.10 When setting fees the Council must have regard to the impact that any increase may have upon the livelihood of licence holders. The Council follows the Mobile Homes: a guide for local authorities on setting fees for the fit and proper person test to ensure a fair and transparent approach for local businesses and communities. The Licensing Team must ensure that its service is efficient, effective and streamlined as it can be to help reduce the burden on business.

## **5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION**

*NONE*

## **6. PREVIOUS MINUTES**

*There are no previous Minutes*

## **7. BACKGROUND PAPERS**

- Caravan Sites and Control of Development Act 1960  
<https://www.legislation.gov.uk/ukpga/Eliz2/8-9/62/contents>
- Mobile Homes Act 2013 -  
<https://www.legislation.gov.uk/ukpga/2013/14/contents/enacted>
- The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020  
<https://www.legislation.gov.uk/ukdsi/2020/9780348209556/contents>
- Mobile Homes: a guide for local authorities on the fit and proper person test and Mobile Homes: a guide for local authorities on setting fees for the

fit and proper person test issued by the Ministry of Housing, Communities and Local Government.

<https://www.gov.uk/government/publications/mobile-homes-fit-and-proper-person-test-guidance-for-local-authorities>

**Report prepared by:**

Anita Hunt, Public Protection Group Manager 01952 381818