

LICENSING OF RESIDENTIAL CARAVAN SITES

Report by Service Director Regulatory Services

SCOTTISH BORDERS COUNCIL

28 March 2019

1 PURPOSE AND SUMMARY

- 1.1 The purpose of this report is to consider fees for caravan sites following changes to legislation with respect to a licensing system for mobile home sites with permanent residents.**

2 RECOMMENDATIONS

- 2.1 It is recommended that the Council in respect of caravan sites with permanent residents agrees the fee to be charged for processing first site licence applications and for a licence renewal be set at £600 with immediate effect.**

3 BACKGROUND

- 3.1 The Caravan Site and Control of Development Act 1960 ("the 1960 Act") requires those wishing to use land as a caravan site to be licensed. It is a function of the Council's Civic Government Licensing Committee to licence such sites. There are a number of exceptions including the following:-
- (a) The use of the land as a caravan site if the use of the caravan is incidental to the enjoyment of a dwellinghouse within the curtilage of which the land is situated.
 - (b) Use as a caravan site of agricultural land for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation.
 - (c) Use as a caravan site of land which forms part of or adjoins land on which building or engineering operations are being carried out if that use is for the accommodation of a person or persons employed in connection with the operation.
 - (d) If the occupier of the land is the local authority within whose area the site is located.
- 3.2 Part 5 of the Housing (Scotland) Act 2014 ("the 2014 Act") inserts a new Part 1A in the 1960 Act.
- 3.3 Previous caravan site licences were granted in perpetuity. Under the new system a site licence for sites with permanent residents runs for five years from the date the licence comes into operation. The local authority must renew the licence if planning permission is in place and the licence holder passes the fit and proper person test. Holiday sites are unaffected and remain in perpetuity or until planning permission expires.
- 3.4 Scottish Government research found residents and local authorities had experienced problems with maintenance, security and safety standards on sites and issues around intimidation, abusive behaviour, vandalism and violence or damage to property. A new licensing system for mobile homes in terms of the 2014 Act commenced on 1 May 2017. Holders of a current licence under the 1960 Act must apply for a new licence by 1 May 2019.

4 NEW LICENSING SYSTEM

- 4.1 On 1 May 2017 a new licensing scheme came into force for caravan sites that have permanent residents. "Resident" refers to people who live on a permanent basis in a mobile home where the mobile home is usually owned by the resident and it is situated on a site that is licensed for year round occupation. A "mobile home" or caravan is any structure designed or adapted for human habitation which is capable of being moved from one place to another either by towing or by its own power.
- 4.2 The key measures of the new scheme are as follows:-
- (a) Gives local authorities a range of powers in relation to the granting, management and revocation of licences.
 - (b) Introduces a 5 year licence period.

- (c) Introduces the requirement that a site licence holder (and anyone directly managing a site) is a fit and proper person.
 - (d) Introduces a process for site owners and site licence applicants to appeal against decisions by the local authority.
- 4.3 Under the new licensing system the local authority is able to charge a fee for both first site licences and licence renewals.
- 4.4 Holiday sites do not require to be licenced to have permanent residents and are not affected by the changes.
- 4.5 Those who already have a licence under Part 1 of the 1960 Act have until 1 May 2019 to apply for a new site licence. At present there are two licenced residential caravan sites in the Scottish Borders area.
- 4.6 The determination of applications for caravan site licences is delegated to the Council's Civic Government Licensing Committee.

5 FEES

- 5.1 Under the new licensing system a local authority is able to charge a fee for handling a first site licence application and for a licence renewal. It cannot charge a fee for handling a site licence transfer application or for transmission of a site licence.
- 5.2 Under Section 32C(2) of the 1960 Act as amended, the fee "must not exceed an amount which ii considers represents the reasonable costs of an authority in deciding a relevant permanent site application".
- 5.3 A local authority can charge a different fee for a first site licence application and for a renewal. A Local Authority can also choose to charge different fee levels for different sizes of sites.
- 5.4 The matters which a local authority is to take into account when fixing a fee for a relevant permanent site application are set out in the amended 1960 Act. The Local authority can take into account expenses that it reasonably expects to incur in relation to the following:-
- (a) Receiving, logging and storing an application and any further information given to the authority.
 - (b) Checking an application.
 - (c) Requesting further information and checking that information once received.
 - (d) Arranging any appointments and attending any meetings required in relation to an application.
 - (e) Checking that an applicant is entitled to the benefit of planning permission for the use of the land as a relevant permanent site otherwise than by a development order.
 - (f) Satisfying itself that the persons mentioned in paragraphs' (1)(b) or (2)(b) of Section 32D to the 1960 Act as amended are fit and proper persons.
 - (g) Carrying out any risk assessment of the site that the authority considers necessary.
 - (h) Carrying out one inspection of the site including the cost of travelling to and from a site.

- (i) Drafting, revising and finalising a licence.
 - (j) Deciding whether to issue or refuse a licence and informing an applicant of a decision.
 - (k) Considering any representations made by the applicant following the local authority informing the applicant that it is considering refusing an application in accordance with Section 32D(4)(b) of the 1960 Act as amended.
- 5.5 Scottish Government Guidance issued in April 2017 advises that the basis upon which a local authority has calculated the fees it charges in the licensing system should be made available on request and authorities should be open and transparent about the factors they have taken into account and how they have calculated the fees charged.
- 5.6 In preparing the proposals for the new licensing system the Scottish Government carried out research and discussions to establish the potential level of fees. Based on research and interviews undertaken the Scottish Government estimated that the fee associated with granting a first site licence to a residential mobile home park would be £600.
- 5.7 It is considered that an application fee for a first site licence and for a licence renewal should be £600 in accordance with the estimate provided by the Scottish Government.

6 IMPLICATIONS

6.1 Financial

The financial aspects are contained within the body of this report.

6.2 Risk and Mitigations

The information provided within this report ensures transparency and helps to mitigate reputational risk to the Council by allowing further scrutiny of its Income and Expenditure.

6.3 Equalities

It is anticipated that there will be no adverse impact due to race, disability, gender, age, sexual orientation or religious belief arising from the proposals contained within this report.

6.4 Acting Sustainably

There are no economic, social or environmental effects as a result of the proposals contained in this report.

6.5 Carbon Management

There is no impact on the Council's carbon emissions as a result of the proposals contained in this report.

6.6 Rural Proofing

Not applicable as although this is a legislative requirement it is not a new policy.

6.7 Changes to Scheme of Administration or Scheme of Delegation

No changes to either the Scheme of Administration or the Scheme of Delegation are required as a result of the recommendations in this report.

7 CONSULTATION

- 7.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, Service Director Human Resources, Communications and the Clerk to the Council are being consulted and any comments received will be incorporated into the final report.

Approved by

Brian Frater

Service Director Regulatory Services Signature

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Background Papers:

None

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