

Mobile Homes and Caravan Site Licensing Policy

Title: Mobile Homes and Caravan Site Licensing Policy	Approved: 15/07/2021	Effective from: 15/07/2021	Next review: 13/07/2023
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Review Comments			

Aim

This policy updates the previously approved Mobile Homes and Caravan Site Licensing Policy following the introduction of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

Scope

This policy applies solely to residential caravan sites throughout the district

Consultation

As this policy updates a previously approved document, and introduces the legal requirement for a fit and proper person through statute, consultation is not required.

Communication

Once approved, this policy will be communicated to all residential caravan site owners, and publicised on the councils corporate website.

1.0 Introduction

1.1 Under the Caravan Sites and Control of Development Act 1960 (the 1960 Act) North Kesteven District Council (NKDC) issues site licences for caravan park homes that have relevant planning permission. This legislation has been amended by the Mobile Homes Act 2013 (the 2013 Act) which aims to raise standards in the industry and provide for more effective enforcement when site licence holders fail to comply with their licence obligations. The 2013 Act also introduces some important changes to the buying, selling or gifting of a park home and the pitch fee review process.

The changes relating to site licensing came into force on 1 April 2014. Licences issued under the 1960 Act still remain in force, and enforcement powers still apply and local authorities are able to charge fees for functions relating to “relevant protected sites”.

There are 592 licensed caravans or mobile homes in the North Kesteven District on 19 licensed relevant protected sites.

The introduction of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (the 2020 Regs), now require that a local authority must be satisfied that the owner of a site is a fit and proper person to manage the site.

1.2 A relevant protected site is defined in the 2013 Act as any land to be used as a caravan site other than one where the application for a licence is:

- For holiday use only, or
- Subject to restrictions or conditions which limit the times of the year when the site may be used for stationing caravans for human habitation (e.g. planning conditions).

1.3 Relevant protected sites to which the legislation applies are typically known as residential parks, mobile home parks, park homes sites and Gypsy and Traveller sites. Other sites which are not relevant protected sites are still subject to licensing under the 1960 Act but no fee is required to be paid.

This policy does not apply to the following:

- Sites that are owned by the local authority.
- Use incidental to a dwelling house within the same curtilage.
- Individual permanent residential mobile homes.
- Touring sites.
- Holiday sites.
- Caravans occupied by seasonal workers.
- Sites where caravans are stationed solely for workers employed in building or engineering operations on that or adjacent land.
- Sites used by travelling showmen who are members of a relevant organisation.
- Sites occupied by organisations holding a certification of exemption.

1.4 NKDC cannot license a site unless planning permission has been granted. The planning authority will be consulted to confirm that the site has planning permission for the relevant use.

1.5 NKDC will make a decision either to licence the site or to refuse a licence, within 6 weeks of receipt of a duly made application. Where a licence is refused, the applicant will be advised of the reasons for refusal and their right of appeal.

1.6 NKDC consider it appropriate to make single pitch sites exempt from annual licence fees (but not other fees) as their inspection and fee collection arrangements would not be cost effective nor would it add value. Sites which do not fall within the definition of ‘relevant protected sites’ are still subject to the licensing requirements contained within the 1960 Act, but the provisions relating to payment of fees do not apply.

- 1.7 This Policy sets out how NKDC will carry out its statutory responsibilities for caravan site inspection, licensing and enforcement and setting fees. Provision is made for:
- A register of all residential sites whose site rules are deposited with NKDC (including a register of sites to be made available on NKDC's website).
 - A site licensing procedure.
 - Determination and annual review of site licensing fees and enforcement charges.
 - Implementation of Model Standards, including the updating of site licence conditions to reflect the Model Standards where necessary (see section 3.1 below).
 - Implementation of the Fit and Proper Person test.
 - A register of all duly assessed fit and proper persons.
- 1.8 NKDC will:
- Clarify expectations regarding the standards to be met by owners of caravan sites within the District.
 - Provide advice and assistance to occupiers of mobile homes and caravans to ensure that they are able to live in safe and healthy homes.
 - Ensure that any enforcement action taken by NKDC is effective and proportionate.

2.0 Site licensing requirements, fees and charges

- 2.1 Before a local authority can charge a fee, it must prepare and publish a fees policy. When fixing a fee the local authority:
- Must act in accordance with its fees policy.
 - May fix different fees in different cases.
 - May determine that no fee is required in some cases.

Any fees charged must fairly cover the costs (or part of the costs) incurred by the local authority in performing its functions under Part 1 of the 2013 Act, (excluding the costs of enforcement action or any functions relating to prohibiting caravans on commons or provision of sites by the local authority itself). In setting its fees policy and the fees to be charged, NKDC has had regard to Department for Communities and Local Government guidance 'Mobile Homes Act 2013: a Guide for Local Authorities on Setting Licensing Fees'. Under the 2013 Act, NKDC can charge for:

- The issuing of the first site licence.
 - Generic fees for all sites for the issuing of the licence.
 - Annual renewal: monitoring and administration of existing site licences.
 - The depositing of site rules.
 - The transfer of a licence.
 - The alteration of a licence (initiated by the site owner).
 - The administration and determination of the fit and proper person test.
- 2.2 The fees have been calculated based on the estimated average time and costs involved in undertaking the following activities; all administrative costs incurred in the licensing process, officer visits to sites, travel costs, consultations, meetings, monitoring of sites / investigation of complaints and the giving of informal advice.
- 2.3 Section 10A (5) of the 1960 Act (as amended by the 2013 Act) states that a fees policy must include provision about the time at which the annual fee is payable. For the purpose of this policy, the period covered by the annual fee will be 1st April to 31st March and will be invoiced on the 1st April each year or as soon as practicable after.

- 2.4 Fees will be revised annually, alongside reviews of NKDC's other regulatory fees and charges.
- 2.5 Fees for a new site licence are based upon a fixed cost plus a charge per pitch to reflect the variation in the cost of processing the application according to the size of the site.
- 2.7 All sites must pay an annual fee to NKDC (subject to exemptions). This fee covers the costs associated with administration, annual inspection and a revisit to ensure compliance where required. The annual fee is based upon a fixed cost plus a charge per pitch to reflect the variation in the cost of processing the licence renewal according to the size of the site.
- 2.8 Where the licence holder requests an amendment to site licence conditions, NKDC will charge a fee. Where NKDC instigates a change in conditions, no fee will be payable.
- 2.9 Where a licence holder wishes to transfer a licence, an application must be made to NKDC for which a fee is payable. The fee for the transfer of a site licence is based on a fixed cost as generally no site visit is required.
- 2.10 Single unit sites where the operator is also the owner and occupier of the park home will be exempt from annual fees.

3.0 Licensing conditions, Inspections and Enforcement

- 3.1 NKDC's responsibility for the licensing of caravan sites includes the application and enforcement of appropriate conditions. The specific purposes for which conditions can be applied are set out in Section 5 of the 1960 Act. Site licence conditions may be determined with reference to national Model Standards. NKDC has a power to update site licence conditions in line with Model Standards as modified from time to time by the government. The aim of such standards is to promote the safety and welfare of the residents. The applicable Model Standards were issued in 1983 for touring sites, 1989 for holiday sites and 2008 for residential sites. The Model Standards can be viewed on the NKDC website.
- 3.2 NKDC will carry out scheduled inspections of all licensed sites, which are likely to be without notice. Site owners will be advised of any actions required to ensure compliance with the site licence conditions.
- 3.3 The main focus of enforcement activity will be informal advice and education, including the provision of information directly by telephone or in person. Formal enforcement action will be taken under the relevant legislation only when informal action has failed to secure an acceptable improvement in standards or compliance with licence conditions. Any use of enforcement powers will be in accordance with the North Kesteven District Council Corporate Enforcement Policy.
- 3.4 Section 9A of the 1960 Act (as amended by the 2013 Act) allows local authorities to serve compliance notices on site owners where a site licence condition is breached. These notices will set out what the site owner needs to do to correct the breaches within prescribed timescales. Service of a notice will attract a charge. Failure to comply with the notice would be a criminal offence and the local authority may consider taking legal proceedings. Any costs associated with this process would be at the discretion of the court. Following a successful prosecution for breaching a compliance notice, NKDC would be able to serve notice to enter the site and carry out the necessary works themselves (known as "works in default").
- 3.5 In addition, Section 9E allows a notice to be served on site owners enabling the local authority to enter the site and take emergency action where there is an imminent risk of serious harm.

- 3.6 Enforcement charges will be based on an hourly rate reflecting the costs of enforcement, plus any additional costs incurred (e.g. legal costs). Site owners may not pass on enforcement charges to residents in their pitch fees.

4.0 Site Rules

- 4.1 Site rules are different to site licence conditions in that they are neither created nor enforced by local authorities. They are a set of rules created by the site owner for residents to comply with. They may reflect the site licence conditions but will also cover matters unrelated to licensing. The 2013 Act makes amendments to the Mobile Homes Act 1983 in relation to site rules. Regulations made under the 2013 Act require existing site rules to be replaced with new site rules which must be deposited with the local authority within a specified timescale.
- 4.2 A Local Authority would need to satisfy itself that replacement or new site rules deposited with them have been made in accordance with the procedures prescribed by statute. NKDC will be required to establish, keep up to date, and publish a register of site rules or the variation or deletion of site rules.
- 4.3 Any site rules deposited with NKDC for the first time, or applications to vary or delete existing site rules must be accompanied by the appropriate fee. The fee is the same for either first deposit or for a subsequent variation or deletion. This is because the process will be very similar for all three types of deposits.

5.0 Fit and Proper Person Test

- 5.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI No.1034) ('the 2020 Regs'), 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.
- 5.2 This 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 to which an application relates, and as such they do not pose a risk to the welfare or safety of persons occupying mobile homes on the site.

These Regulations do not apply to non-commercial family-occupied sites which are not operated on a commercial basis in accordance with Regulation 3. The timetable for these Regulations being implemented is as follows:

- Local authorities in England have until 1st July 2021 to prepare to receive applications from site owners/licence holders; to establish the processes for making and issuing decisions; and to establish a fit and proper person register for their local area.
 - Site owner's/licence holders will have 3 months from 1st July 2021 to submit completed applications to local authorities. The deadline for applications is 1st October 2021.
- 5.3 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;

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 sufficient level of competence to manage the site;
- the management structure and funding arrangements for the site or proposed management structure and funding arrangements.

Other matters to be considered are whether the relevant person has:

- committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
- has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- has harassed any person in, or in connection with, the carrying on of any business;
- is, or has been within the past 10 years, personally insolvent;
- is, or has been within the last 10 years, disqualified from acting as a company director;
- whether the relevant person has the right to work within the United Kingdom;
- whether any other local authority has rejected an application for the responsible person to be included in a register;

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 authority can also consider any evidence as to any other relevant matters.

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

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

As soon as is reasonably practicable after a full and complete application is received (including the relevant fee), the local authority must make a decision on the application and either;

- where the decision is to grant the application unconditionally and to include the relevant person on the register for 5 years, serve a final decision notice on the applicant or;
- otherwise serve a preliminary decision notice on the applicant.

Once a full and completed application has been received by the authority, the nominated Environmental Health Officer (EHO) will review the information and obtain any further information deemed relevant to the application. The 'EHO' will then prepare a case file for review by the Public Protection Manager (PPM). The 'PPM' may authorise that an application

be granted unconditionally or subject to relevant conditions. Where an application is to be rejected the 'PPM' will consult with (and require approval from) the Head of Environment and Public Protection, or equivalent in advance of issuing the preliminary decision notice.

- 5.5 Any preliminary decision notice will be in accordance with the Regulations and will provide the applicant with 28 days, beginning with the day after the day on which the notice was served, to make written representations to the authority. Once written representations have been received the authority may then make a final decision which may include approving an application subject to specific conditions.

Where the authority may seek to remove a 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.

The local authority may withdraw or amend:

- a preliminary decision notice before service of the final decision notice;
- a final decision notice before the decision to which it relates takes effect or;
- a notice of proposed action before the proposed action is taken

A person on whom a final decision notice is served may appeal to a First-tier Tribunal (FTT) against:

- any decision to include the relevant person on the register for an effective period of less than 5 years;
- any decision to include the relevant person on the register subject to conditions and;
- any decision to reject the application.

A person on whom a notice of action is served may appeal to the FTT against:

- any decision to remove the relevant person from the register;
- any decision to impose a condition on the inclusion of the relevant person in the register and;
- any decision to vary a condition.

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).

- 5.6 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, and to make the register open to inspection by members of the public at the offices of the local authority during normal office hours.

The authority must also publish the register online and the contents of the register will be in accordance with the Regulations.

A person's inclusion in the register has effect for a maximum period of 5 years.

- 5.7 Regulation 10 permits the local authority to charge a fee for the processing of applications, and will be incorporated into the authorities annual fees and charges policy which is updated annually. This is to cover the cost of processing applications and will be reviewed annually.

Where the authority has, with the occupier's consent, appointed a person to manage a site, the authority will recover from the occupier the reasonable costs incurred or to be incurred in making the appointment in accordance with Regulation 10.

5.8 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 (which falls within the scope of the Regulations) without the manager of the site being registered with the local authority as a fit and proper person.

An applicant also commits an offence if he:

- withholds information from a registration application or;
- includes false or misleading information in a registration application
- fails to comply with a condition imposed under Regulation 6(2)(b) or Regulation 8(1)

An owner (occupier) of land who is guilty of an offence is liable on summary conviction to a level 5 fine (unlimited). 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.

Where:

- an owner (occupier) of land who holds a site licence in respect of that land is convicted of an offence under Regulation 11 for a contravention of the fit and proper person requirement and;
- has been convicted on two or more previous occasions of the offence in relation to that land,

The court before which the occupier is convicted may, on application by the local authority, make an order revoking the site licence in question.

Policy Approval

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Signed:

(Leader of Council/Deputy Leader)

(Chief Executive/ Deputy Chief Executive)