



## LICENSING AND APPEALS COMMITTEE 22<sup>nd</sup> November 2021

<b>Report Title</b>	Mobile Homes Fees and Assessment Policy
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<b>Lead Member</b>	Portfolio Holder for Growth and Regeneration – Cllr David Brackenbury

<b>Key Decision</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Is the decision eligible for call-in by Scrutiny?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Are there public sector equality duty implications?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Does the report contain confidential or exempt information (whether in appendices or not)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Applicable paragraph number for exemption from publication under Schedule 12A Local Government Act 1974</b>	

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### List of Appendices

#### Appendix A – Mobile Homes Fees and Assessment Policy

#### 1. Purpose of Report

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- 1.1 This report is concerned with the introduction of a policy for the licensing of mobile home sites, the setting of fees and the conduct of fit and proper person assessments for licence holders. The Policy has been drafted to replace any pre-existing provisions or policies in the predecessor Councils with a view to ensuring that there is a clear policy adopted which reflects the aspirations of North Northamptonshire Council to be a good place to live, work and do business.

## **2. Executive Summary**

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- 2.1 The Council is required to adopt a policy in relation to fees associated with the licensing of mobile home sites, including the new requirement for a Fit and Proper Person Assessment. The policy will, if adopted, apply to managers and or owners of caravan and mobile home sites, in the North Northamptonshire area.
- 2.2 The ability to charge fees does not apply to all sites licensable under the amended Act but only to those that are “relevant protected sites” (RPS). A RPS is one covered by the provisions of the amended Act other than where the licence:
- is granted for holiday use only
  - is subject to conditions that prohibit the use of caravans for human habitation during certain times of the year
- 2.3 In addition, a RPS where occupation is permitted all year round will not be covered by the provisions when the caravan is authorised to be occupied by:
- the occupier of the site
  - persons employed by the occupier who do not occupy the caravan under an agreement made under section 1 (1) of the Mobile Homes Act 1983.
- 2.4 Local authority owned sites are also not covered by these provisions.

## **3. Recommendations**

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- 3.1 It is recommended that the Licensing and Appeals Committee:
- a) Adopt the proposed Mobile Homes Fees and Assessment Policy, as set out at Appendix A.
- Reasons for recommendation
- 3.2 The adoption of this policy will set the regulatory framework for the management of the licensing process as the Council fulfils its statutory duties under the Mobile Homes Act 2013 and The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.
- 3.3 The Executive have been asked to approve the fee setting structure for charging an application fee for a mobile homes licence and for a site owner to be assessed under a Fit and Proper Person Assessment, in addition to being included on a Register.

## **4. Report Background**

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### **4.1 Licensing regime**

- 4.1.1 The Caravan Sites and Control of Development Act 1960 (“the amended Act”) as further amended by the Mobile Homes Act 2013, requires a local authority proposing to charge a fee for a caravan / mobile home site licence, covered by the amended Act, to prepare and publish a fee policy.
- 4.1.2 Any fees charged must fairly cover the costs (or part of the costs) incurred by a local authority under its functions in Part 1 of the amended Act. It cannot however recover the costs of enforcement action. The fees must be reasonable and transparent and whilst different fees can apply to different cases, there must be consistency in the fee structure and its application. Fees can only be charged for cost recovery and not for profit.
- 4.1.3 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Fit and Proper Person Regulations”) introduce a new fit and proper person assessment for the owners and or operators of residential mobile home sites, to improve the standards of park home site management.
- 4.1.4 All mobile home site licence holders, except those that are ‘non-commercial’ family occupied sites must apply to the Council and be assessed as a ‘Fit and Proper Person’ to operate a licenced mobile home site. Councils may charge a fee for processing applications to enable them to recover the costs of this activity.
- 4.1.5 The policy was taken to the Executive for approval on 18 November, for those aspects that relate to fee setting.

### **4.2 Calculation of fees generally**

- 4.2.1 The fees charged by a local authority are calculated to recover from the licence holder the costs of all administrative tasks, report writing, meetings, inspections, consultations and advice given in relation to the licence application. The Licensing Team has determined a standard rate for administering licence processes and the current fees are published with the Fees and Charges on the Council’s website. Where the fee includes a technical officer visit or input this is also charged at a standard rate per hour.
- 4.2.2 The sites covered by the fee policy vary considerably in size from very small sites with less than 10 pitches to large sites with more than 100 pitches. Fees for a licence application or annual inspection visit reflect the amount of work required proportionate to the number of units on the site and have been banded accordingly. A single fee is proposed for licence transfers,

amendments or the deposit of site rules as the work required will be similar regardless of the site size.

### **4.3 Fit and Proper Person application fees**

4.3.1 The Fit and Proper Person Regulations allow local authorities to prepare to receive applications from site owners by 1 July 2021. From that date, and by 1 October 2021, all site owners must have submitted an application to be assessed as fit and proper persons.

4.2.3 The Fit and Proper Person Assessment must include consideration of the applicant's:

- a) legal interest in the site; and
- b) conduct, including:
  - i) criminal record;
  - j) financial arrangements;
  - k) management arrangements.

4.2.4 The application for a licence may be approved; approved with conditions attached; or refused. Applicants will have a right of appeal to the First Tier Tribunal within 28 days.

## **5 Issues and Choices**

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5.1 The Council is required to have a policy on the fees and requirements of mobile home licensing in place and published on the website in order to detail administration and enforcement of these sites. The policy provides an overview of the Council's approach to this and how and when action including any potential enforcement action, will be taken.

## **6 Implications (including financial implications)**

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### **6.1 Resources and Financial**

6.1.1 The introduction of Fit and Proper Person Assessment fees will result in some additional income to Regulatory Services in addition to the income from the annual licence fee of each site. However, this additional income will only cover the additional work required to undertake this new statutory assessment.

6.1.2 Officers currently in place within Environmental Health teams are trained and equipped to carry out such assessments and the team can accommodate the additional assessment and inspection expectations within the current resource available. Accordingly, no additional resources or finances are required.

### **6.2 Legal**

- 6.2.1 The Council must determine its fees regime on a cost recovery basis in accordance with the terms of the Act and the Provision of Services Regulations 2009, which implement the EU Services Directive. It is also bound to follow the guidance issued by the MHCLG for the setting of fees.
- 6.2.2 The legal basis for the powers referred to in this report are in the legislation listed in both this report and the policy.

### **6.3 Risk**

- 6.3.1 There are no significant risks to note arising from the proposed recommendations in this report – rather, the risk to the Council materialises if the Council does not adopt a policy in compliance with its statutory duties in respect of the licensing of mobile home sites.
- 6.3.2 Where a site owner or their manager fails the Fit and Proper Person Assessment and they are unable to identify and appoint a suitable alternative manager, the Council could appoint a person to manage the site, with the consent of the site owner. The reasonable costs of this action can be recovered from the site.
- 6.3.3 The implementation of this policy provides the Council with the opportunity to ensure that Mobile Homes across the District are managed to consistent and acceptable standards and to monitor this on an on-going basis.

### **6.4 Consultation**

- 6.4.1 Internal Officer consultation has taken place to inform the drafting of this policy. There is no legal requirement upon the Council to undertake formal consultation in respect of the introduction of these fees and in any event the statutory timetable for implementation does not allow for meaningful consultation. However, if adopted, the Council will monitor the impact of the policy to inform future reviews of the same. Further, the actual costs of applying the policy will be monitored to ensure that accurate and up to date information is available to inform the next review of fees and charges is next reviewed.

### **6.5 Consideration by Scrutiny**

The imposition of fees in relation to mobile home sites does not meet the financial threshold for a Key Decision, and although the fee regime will apply in all wards, it is not considered to be so significant as to amount to a Key Decision as defined within the Council's Constitution. Accordingly, it is not anticipated that the decision will be eligible to be called in by Scrutiny.

## **6.6 Climate Impact**

It is considered that the implementation of this policy will result in no adverse sustainability or climate change impacts.

## **6.7 Community Impact**

It is considered that there are no community impacts associated with this report.

## **7 Background Papers**

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'Fit and Proper Person Test Guide for Local Authorities on Setting Fees' issued by the Ministry of Housing, Communities and Local Government (2021) (currently only draft version available).

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 Statutory Instrument 2020 No. 1034