

Chapter 1- Executive summary

Purpose and scope of this paper

We set out in this document

- A summary of the existing licensing provisions for park home sites;
- A view of the issues and difficulties with the licensing system;
- Revised recommendations starting from recommendations of the Park Home Working Party for improving the system; and
- A discussion on the recommendations and their intended effect.

The Caravan Sites and Control of Development Act 1960 (c. 62) ("the 1960 Act") deals with all caravan types and not just park homes. However, this paper is solely concerned with proposals in respect of park home sites. Park homes are mobile homes, which are used for residential purposes.

The then Department for Environment, Transport, and the Regions (the "DETR") set up the Park Homes Working Party ("PHWP") in 1998, which included bodies representing both homeowners and site owners. Its aim was to consider the operation of the existing controls on park homes and make recommendations for change. An in-principle commitment was made to take forward many of the PHWP's recommendations. The aim of the Working Party was to achieve a fair and workable balance between the needs and interests of park home residents and park owners/operators.

The PHWP made nine recommendations relating to site licensing and two relating to resident associations and tribunals, which are all listed in chapter 2.

Our aim

We aim to provide a comprehensive site licensing system, which is appropriate and works effectively, i.e.:

- remedies existing failures in the current legislation;
- raises the minimum standard on sites by better enforcement on the worse sites;
- makes the system easier to understand;
- makes it easier for local authorities to rectify site licence breaches;
- deters site owners from running down sites;
- is not burdensome on good site owners;
- ensures peace of mind for the residents by ensuring sites are monitored more effectively; and
- supports the long term good reputation of the industry.

We propose the following changes to the site licensing system and would be grateful for your comments on our proposals summarised below.

Our proposals

Grant of a licence

1. A duty should be imposed on local authorities requiring them to attach conditions to the grant of site licence. These conditions to be such as the local authority think necessary or desirable to impose on the site and site owner in the interests of the occupiers and the public large and to be based on Model Standards.
2. For the present 'fit and proper' person controls are not introduced, although this will be subject to ongoing review.

Management of a site changing hands

3. There should be an explicit duty on both a seller and buyer to notify the local authority of a transfer of the site in question at the exchange of contracts.
4. Failure to comply with this duty will constitute an offence punishable on conviction by a fine up to level 5 on the standard scale (i.e. £5000) for the departing site owner and a monthly fine of up to level 5 on the new site owner.
5. Anyone who causes or permits land to be used as park home site and who does not hold a site licence will continue to be guilty of an offence. Section 1 of the 1960 Act should be retained but the level of fine should be increased to a level not exceeding level 5 on the standard scale.
6. Local authorities should be required to inspect the site within 28 days of receiving notification.

Monitoring and enforcement of licensing conditions including licence revocation

7. A duty should be imposed on local authorities requiring them to monitor compliance with site licence conditions and to undertake regular site inspections.
8. Local authorities should be under a duty to take enforcement action. This duty would be flexible, and based on the seriousness or repetitive nature of default. The question of whether to prosecute is and always should remain a matter for the prosecuting authority to take account of individual circumstances.
9. A failure to comply with licence conditions will continue to constitute an offence, *under section 9* of the 1960 Act, but the fine payable on conviction will be raised to one not exceeding level 5 on the standard scale (i.e. £5000).
10. In any enforcement proceedings, local authorities should be able to recover from a site owner not only their costs of taking the proceedings but also their costs of issuing a written request for remedial works.
11. Another possible solution which would require further investigation with other government departments, if thought a good idea is that money collected from fines should be ring fenced for the relevant local authority department carrying out the work.
12. Site inspections should be risk based so that poor park home sites are dealt with more effectively.
13. Local authorities will retain their power in section 9 of the 1960 to revoke a licence in the event of a breach of condition by a site owner. This should continue to be used a remedy of 'last resort'. Guidance to this effect should be issued.

14. Provisions will be introduced to ensure that the use of the power to revoke is facilitated. For example, local authorities should be given a power to install a temporary site manager, where a licence has been revoked and there is no realistic prospect of site improvement in the near future. That manager could for instance be allowed to receive pitch fees, pay for the cost of essential works (refunding any balance to the site owner) and consequently protect the interests of residents.

Provisions should also be introduced that ensure that key services and utilities will continue to be available to park home residents.

Development of resident consultation

15. Site owners should be required to recognise residents' associations, which meet the following criteria:

(a) residents' associations should be set up on sites with a minimum number of units, say 10;

(b) an association would ideally require say 40/50/60 per cent of homes membership as a basis for valid constitution but this would be discretionary;

(c) Rules of the association should be fair and democratic and cover as a minimum

Openness of membership

Election of officers

Notices of meetings

Payment and amount of subscription (if applicable)

Voting Arrangements and Quorum

Independence from the site owner

(d) To gain recognition from the site owner, the secretary of the association would ask the site owner for a written notice of recognition. Refusal would be subject to dispute resolution;

16. Site owners should be required to consult residents' associations before they review park rules and pitch fees. In the meantime guidance should be issued which urges local authorities and site owners to consult in the interests of good management and practice.

17. There should be a *duty* on local authorities to consult site residents before they specify or amend licence conditions

18. A dispute resolution service should be set up to deal with park homes issues.

Resident empowerment

19. Long term we envisage residents' associations having more rights than outlined above. We welcome your views on whether they should have the following additional rights, namely the right:

(a) to inspect accounts that are relevant to support pitch fee increases above RPI;

(b) to seek dispute resolution arising from the enforcement of licensing conditions;

(c) to seek dispute resolution on wider issues such as disputes on the park home sale transaction (*Economics of the Park Homes Industry* report refers);

(d) enforce licensing conditions through an official tribunal possessing the necessary jurisdiction such as RPTS

(e) install temporary management where there is no prospect of site improvement in the near future); and

(f) pursue collective purchase of the site.

19 i) Your views are keenly sought on what, if any additional powers should be given to resident associations in the longer term.

19 ii) We would especially welcome views from established resident associations on whether they would like to have the authority to use any of the above suggested powers.

The model standards, local authority good practice and local authority sites

20. We propose revising and improving the 1989 Model Standards.

21. We propose revising the associated good practice guidance issued to local authorities in 2000. We intend to focus the guidance better on the major issues.

22. We also intend to urge local authorities to observe the Model Standards on their own sites.

Your comments are sought on the above proposals.

In addition, we seek comments on the following questions:

23. Additionally we would like to hear cost breakdowns of each of the changes for site owners for inclusion in the Regulatory Impact Assessment.

24. Is there anything missing from the proposals? If so please explain what it is and why it needs to be included.