
PARK HOMES SITE LICENSING – PROPOSALS FOR REFORM

1 SUMMARY

- 1.1 The purpose of this report is to agree the Council's response to a consultation paper issued by the Office of the Deputy Prime Minister (ODPM) on proposals to amend the current licensing provisions for residential mobile home sites.
- 1.2 A copy of the paper 'Park Homes Site Licensing – Proposals for Reform' has been placed in the Members Library. A copy of the executive summary is appended.

2 INTRODUCTION

- 2.1 In 1998 the Government set up the Park Homes Working Party (PHWP) to consider the operation of existing controls on park homes (residential mobile homes) and to make recommendations for change.
- 2.2 The PHWP made nine recommendations relating to site licensing and two relating to resident associations and tribunals. The consultation paper details the ODPM's proposals arising from these recommendations.
- 2.3 The ODPM has requested comments on the proposed changes by 7 April 2005.

3 KEY PROPOSALS

- 3.1 The key proposals concerning licensing and enforcement issues are detailed below together with comments and suggested responses.

Grant of a Licence

- 3.2 The PHWP recommended that the government should consider whether the licensee should be a 'fit and proper person' with the necessary definition set out in legislation. In response the government accepted the recommendation in principle but wants to give the matter further consideration in line with similar proposals in relation to the regulation of houses in multiple occupation.
- 3.3 It is therefore proposed that 'fit and proper' person controls are not introduced at present but will be subject to an ongoing review.
- 3.4 In line with the PHWP recommendations it is proposed that the current power that a local authority has to attach conditions to a licence should be replaced by a duty.

Comment

- 3.5 In the interests of park home residents it is essential that a local authority has the power to ensure sites are only operated by suitable persons.
- 3.6 The proposal to impose a duty on local authorities to attach conditions to a licence would not affect the Council as all site licences are issued with conditions based on Model Standards. Nevertheless the proposal is welcomed in that it will seek to ensure consistency across the country.

Suggested Response

- **The Council agrees that a duty should be imposed on local authorities requiring them to impose site licence conditions based on Model Standards.**
- **It is essential that licensees are 'fit and proper person' and appropriate controls should be introduced without delay.**

Management of a site changing hands

- 3.7 The government proposes to introduce a duty on both buyer and seller to notify the local authority of a transfer of a site at exchange of contracts.
- 3.8 Failure to comply with the duty will be an offence punishable on conviction by a fine up to level 5 on the standard scale (£5000) for the departing owner and a monthly fine of up to level 5 on the new owner.
- 3.9 Local authorities will be required to inspect sites within 28 days of notification

Comment

- 3.10 It is essential that local authorities are made aware of the proposed sale of a site at the earliest opportunity in order to enter into dialogue with the new owner.
- 3.11 Whilst the duty to carry out an inspection may impose an additional burden on local authorities it is nevertheless seen as an important part of managing the transfer of a site.

Suggested Response

- **The proposals for the management of a site changing hands are welcomed**

Monitoring and enforcement of licensing conditions including licence revocation

- 3.12 The government proposes to impose a duty on local authorities to monitor compliance with site licence conditions and to undertake regular, risk based site inspections.
- 3.13 It is also proposed to impose a duty to take enforcement action dependant on the seriousness or repetitive nature of the offence. Fines payable on conviction are to be raised from level 4 to one not exceeding level 5 on the standard scale.
- 3.14 It is recognised that through enforcement proceedings local authorities should be able to recover not only the cost of the proceedings but also the costs of issuing a written request for remedial works prior to such proceedings. Consideration may also be given to ring fencing fines for the relevant Local Authority department.
- 3.15 Guidance is to be issued on using the power available to revoke a licence. Provisions will be introduced to ensure the power is facilitated and will include, for example, the power to install a temporary site manager.

Comment

- 3.16 The proposed duty to monitor sites will not have an impact on this authority as there is a programme already in place to carry out site inspections on an annual basis with additional inspections being carried out as necessary or on complaint. The proposal will nevertheless seek to ensure consistency of enforcement across the country.
- 3.17 The proposed increase in fines will only be effective if magistrates are prepared to impose realistic penalties on conviction.
- 3.18 It is essential that local authorities are able to recover as much of the costs incurred in taking proceedings as possible. Ring fencing fines is an option that should certainly be explored further.
- 3.19 Although the revocation of a licence will continue to be a remedy of last resort additional powers are needed to ensure that such action can be fully effective and that there are no adverse effects on site residents. It is essential that any additional costs incurred in implementing such powers are fully recoverable

Suggested Response

- **It is agreed that local authorities should be under a duty to monitor compliance with site licence conditions, to carry out regular, risk based, inspections and to take enforcement action where appropriate.**

- **The proposed increase in the level of fines is welcomed but will only provide an effective deterrent if magistrates are prepared to impose realistic penalties on conviction.**
- **In order to provide and maintain an effective enforcement regime local authorities should be able to recover all of the costs incurred in taking proceedings. The possibility of ring fencing fines should certainly be explored further.**
- **The proposal to issue guidance on the use of powers to revoke licences and the introduction of additional powers to ensure this can be done effectively and without disrupting key services and utilities is welcomed.**

Development of resident consultation

- 3.20 Whilst local authorities are under a duty to consult site owners in connection with proposals to amend site licences there is no such duty to consult with mobile home owners.
- 3.21 The government considers it is essential for homeowners to be involved in site management issues with rights of consultation either individually or within residents associations. It therefore proposes to require site owners to recognise and consult with residents associations and to impose a duty on local authorities to consult residents before specifying or amending site licence conditions.
- 3.22 The government appreciates that there may be resource implications for local authorities but considers that any additional burden is likely to be small.

Comment

- 3.23 It is accepted that residents should be involved in matters that may have an impact on them, their homes or their site environment. It is essential that individual residents have the right to be involved and consulted, as many may not wish to join a residents association.

Suggested response

- **Site owners should be required to consult with residents before reviewing park rules, pitch fees and in respect of other matters which may have an impact on them or their environment. The consultation should not only be with residents' associations but also with individual homeowners.**
- **It is accepted that local authorities should be required to consult residents before specifying or amending licence conditions**

The Model Standards and Good Practice

- 3.24 The government recognises that the current Model Standards, issued in 1989, are out-of-date in several areas and require urgent updating. It is therefore proposed to issue new Model Standards. Consideration is being given to revising the format to ensure consistency of application but at the same time allowing some flexibility to deal with local circumstances.
- 3.25 It is also proposed to replace the existing good practise guide on site licensing, issued in 2000, with a new guide focussed on major issues

Comment

- 3.26 From experience, the adoption of new Model Standards can have a significant impact on mobile homeowners, site operators and local authorities. Local authorities must be fully consulted on any proposed new Standards to ensure that the likely impact can be assessed and that any matters of concern relating to the current Standards are addressed.

Suggested response

- **Whist accepting that the current Model Standards require updating and amending it is essential that local authorities fully consulted before any new Standards are issued.**

4 RISK IMPLICATIONS

- 4.1 There is no risk in not commenting on the consultative document, other than losing an opportunity for Members to influence the government's proposals.

5 RESOURCE IMPLICATIONS

- 5.1 There may be resource implications concerning the proposed obligation to consult homeowners on site licence amendments but these are difficult to quantify at this stage.
- 5.2 Additional resources may be needed to meet the proposed enforcement requirements but these could be, partially or fully offset through the recovery of costs and the ring fencing of fines.
- 5.3 The introduction of new Model Standards could have a significant impact on resources, both at Member and Officer level.

6 LEGAL IMPLICATIONS

- 6.1 The proposals will impose new duties on local authorities as detailed in the report.

7 PARISH IMPLICATIONS

7.1 The residential mobile home sites are situated in the parish of Hullbridge

8 RECOMMENDATION

8.1 It is proposed that the Committee **RESOLVES**

To consider the consultation paper and agree, subject to any comments, the suggested responses detailed above

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Background Papers:-

None

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