

CONSULTATION OF THE PARK HOMES WORKING PARTY

1 SUMMARY

- 1.1 This report discusses the main issues arising from a consultation report published by The Department of the Environment, Transport and the Regions regarding residential park homes and suggests comments to be made in response.
- 1.2 A great deal of the consultation relates to the relationship between resident and site operator but also includes site licensing issues, which is a statutory function. Conditions attached to a site licence and the enforcement of these conditions are at the discretion of the local authority.

2 INTRODUCTION

- 2.1 The Department of the Environment, Transport and the Regions (DETR) has produced a report based on proposals put forward by their Park Homes Working Party. A copy of the summary report is appended. A copy of the full report has been placed in the Members Room.
- 2.2 The Park Homes Working Party was set up by the Government in 1998 to consider the effectiveness of existing controls on residential park homes and recommend changes that may be needed to achieve a fair and workable balance between the needs/interests of residents and site operators.
- 2.3 "Park home" is the industry's preferred name for a residential mobile home or caravan. There are six licensed sites in the Rochford District for park homes.
- 2.4 Park homes are considered an important part of the housing provision in the Rochford district. It is this Council's view that park home dwellers are entitled to receive the same care and consideration as other residents in the District.

3 KEY RECOMMENDATIONS AND COMMENTS

- 3.1 A number of the issues mentioned in the report specifically relate to the relationship between resident and site operator, and the Council has little control over these. However, the Council does receive enquiries from residents about these issues and it is felt that the Council should welcome any proposals that set out to protect the interest of residents from unscrupulous site operators.

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- 3.2 The recommendations that have a direct impact on the Council are discussed further:

3.3 Harassment and illegal eviction

- 3.3.1 Recommendation: The Caravan Sites Act 1968 should be amended to follow the terms of the legislation giving protection against harassment and illegal eviction to private rented tenants.
- 3.3.2 Recommendation: Good practice guidance emerging from research should be drawn to the attention of local authorities and they should be urged to act on it. This guidance should include recommendations on improving liaison between local authority departments, the need for information on local authority contact points and other sources of assistance and the importance of effective intervention by authorities.
- 3.3.3 Recommendation: The Government should consider further home owners' proposals on compensation and arbitration schemes.
- 3.3.4 *Suggested comment: It is considered appropriate for legislation to be amended so that park home residents are afforded the same protection against harassment and illegal eviction as private rented housing tenants. The Council would also welcome the introduction of an arbitration scheme for disputes where recourse to the criminal court was not appropriate. However, it is not considered appropriate for the Council to arbitrate as not only will there be a great strain on the Council's resources, but it could also lead to a conflict of interest regarding site licensing issues.*

3.4 Controlling the award of a site licence

- 3.4.1 Recommendation: The Government should consider whether the licensee should be required to be a "fit and proper person" and whether a statutory definition of "fit and proper person" should be provided.
- 3.4.2 *Suggested comment: The Council would support being able to restrict the issue of licences to people regarded as "fit and proper". A statutory definition of "fit and proper person" would need careful consideration, however, it is imperative that they have proper training.*

3.5 Revocation of licence

- 3.5.1 Recommendation: The Government should consider whether it is necessary and desirable to clarify the provisions on how the revocation of a licence would affect home owners, so as to ensure that their statutory rights would not be materially reduced following revocation.

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- 3.5.2 *Suggested comment: The Council supports an amendment to legislation without delay to clarify the position of home owners where a licence has been revoked.*

3.6 Control of parks owned by local authorities

- 3.6.1 Recommendation: The Government should consider whether local authority-owned parks should be covered by licence conditions and how this might be brought about, including the possibility that a neighbouring authority might operate the licensing regime. Alternatively, whether good practice guidance should indicate that authorities should operate conditions on authority-owned parks in the same way as on privately-owned parks in the same way as on privately-owned parks, but without the operation of a licensing system.
- 3.6.2 *Suggested comment: Although this Council does not own any parks, it is considered sensible for local authority-owned parks to be subject to the same conditions as licensed parks.*

3.7 Adequacy of penalties for breach of licence conditions

- 3.7.1 Recommendation: The Government should consider whether the system of fines and other penalties available to the court for breaches of licence conditions, should be strengthened, including encouraging authorities to use their powers to carry out repair works in default more frequently.
- 3.7.2 *Suggested comment: It would be appropriate for the level of fines to be increased and brought into line with offences under the Housing and Landlord and Tenant Acts. However, the effectiveness of increased fines would ultimately depend on the fines Magistrates imposed. In our experience Magistrates appear to be reluctant to impose heavy fines.*

3.8 Notification when licences are assigned

- 3.8.1 Recommendation: The Government should consider whether there should be a requirement for authorities to be notified when parks change hands, or whether information on sales held by the Land Registry might be used to alert authorities to changes in park ownership.
- 3.8.2 *Suggested comment: Licensees of parks in this district are already required to notify the Council of changes and there have not been any problems with regard to this matter. Nevertheless, the proposals are supported.*

3.9 Duty for authorities to impose, monitor and enforce licence conditions

3.9.1 Recommendation: The Government should consider whether authorities should be put under a duty to attach, monitor and enforce conditions to licences. Authorities should also continue to have regard to the Model Standards in attaching conditions to licences.

3.9.2 *Suggested comment: The Model Standards have been included in site licences in this district and sites are regularly inspected and monitored. This Council considers that all authorities should have a duty to attach, monitor and enforce conditions to ensure consistency throughout the country.*

3.10 Home owners' right to be consulted on licence conditions

3.10.1 Recommendation: The Government should consider whether there should be a right for home owners to be consulted on, and to appeal against, licence conditions and/or proposed changes in the conditions.

3.10.2 *Suggested comment: In the past the Council has consulted residents on major proposed changes to licence conditions. Whilst it is not felt appropriate for there to be a right of appeal, there should be formal systems in place to notify residents and consider their views on any proposals.*

3.11 Consistent practice by authorities

3.11.1 Recommendation: The Government should consider whether to support consistent practice by authorities through encouraging the adoption of good practice guidance on the setting and monitoring of licence conditions (to be issued following research currently being undertaken).

3.11.2 *Suggested comment: The Council would support any measure to promote good practice and ensure consistency.*

3.12 Revision of Model Standards

3.12.1 Recommendation: The Government should consider whether to amend the Model Standards to include additional items.

3.12.2 *Suggested comment: Whilst clarification/guidance on parts of the existing Model Standards is welcome, the Council does not consider extensive revision of the Model Standards is either appropriate or necessary. Overcomplicating site licences by having too many regulations may undermine the purpose of the licensing regime. The amendment of licences following revision of the Model Standards in 1989 has taken a considerable amount of time and resources for both officers and Members and because of this the Council cannot support further major changes.*

3.13 Specification for home bases

- 3.13.1 Recommendation: Park owners' and home owners' bodies should agree a specification for home bases, to be adopted as general practice, perhaps by incorporating it into the Model Standards.
- 3.13.2 *Suggested comment: The only way this could be enforced is during an inspection when the base is constructed. Clarification on who would enforce this is required. As there would be resource implications for the authority, clarification from Government should also be sought as to how the additional resources would be met. Despite the Working Party's concerns, this Council would support park home bases being brought under the Building Regulation regime. If such a requirement were to be introduced, it should apply to all new bases and to bases in need of repair/replacement so as to cause minimal disruption.*

3.14 Planning policy

- 3.14.1 Recommendation: The Government should consider an amendment to the wording of Planning Policy Guidance 3: Housing, to ensure that the need for home parks is fully reflected in planning policies.
- 3.14.2 *Suggested comment: The Council considers park homes to be an important sector of housing provision in the district and would support the Government amending the wording of planning policy guidance to ensure that the need for home parks is reflected in planning policies.*

3.15 Permitted development

- 3.15.1 Recommendation: The Government should consider whether to amend the General Permitted Development Order 1995 to allow minor additions to park homes to be exempt from the need for planning permission on the same basis as already applies to bricks and mortar homes. This would be conditional on such additions being approved by the park owner and being consistent with the site licence conditions.
- 3.15.2 *Suggested comment: Provided that any works are agreed by the site owner and do not conflict with licence conditions, it would seem appropriate for minor additions to park homes to be exempt from the need for planning permission. This would put residents on a par with people living in traditional homes. Care would be needed not to permit additions which would put the park home outside the definition of 'caravan'.*

4 RESOURCE IMPLICATIONS

- 4.1 Some recommendations in the report may have a considerable impact on resources if imposed but these are impossible to quantify at this stage.

5 LEGAL IMPLICATIONS

- 5.1 If some of the recommendations are to be introduced, there may be an impact on the enforcement of breaches of licence conditions, which may in turn lead to an increase in the number of prosecutions in the Magistrates Court.

6 PARISH IMPLICATIONS

- 6.1 Residential caravan sites are all in the Parish of Hullbridge.

7 RECOMMENDATION

- 7.1 It is proposed that the Committee **RESOLVES**
- (1) That, subject to Members comments, the suggested responses as set out in section 3 be given in response to the consultation document. (HHHCC)

Graham Woolhouse

Head of Housing, Health and Community Care

Background Papers:

DETR Report of the Park Homes Working Party

For further information please contact Elaine Prosser on:

Tel: 01702 318052
E-Mail: elaine.prosser@rochford.gov.uk



Report of the Park Homes Working Party

Background

'Park home' is today's preferred name for a residential mobile home, installed on a site or 'home park'. Parks may be owned privately or by a local authority. Most residents own their own homes and pay the park owner a rent (the 'pitch fee') for the pitch on which the home is sited and the services which the park owner provides.

Relations between home owners and park owners are governed mainly by the Mobile Homes Act 1983 and the Caravan Sites Act 1968. The law gives certain rights to home owners who have agreements allowing them to occupy their homes on the park as their main residences. These include:

Security of tenure for as long as the agreement or the park owners' planning permission lasts. This is subject to a number of grounds for the termination of the agreement, including whether the home is having a detrimental effect on the amenity of the site because of its age and condition, or is likely to do so within the next five years.

The right to sell the home to a person approved by the park owner.

A requirement for the park owner to give the home owner a written statement of his rights within three months of the home owner's agreement to come onto the park.

When a home owner comes to sell his or her home, the park owner can charge a 'commission' on the sale proceeds. The law limits the maximum amount of commission, currently 10% of the sale price.

- Protection for home owners against harassment and unlawful eviction.
- Controls on resale prices for mains gas and electricity, but not currently for water or bottled gas.

Local authorities license home parks under the Caravan Sites and Control of Development Act 1960. The authority must issue a licence to anyone who has the necessary planning permission for the use of the site, unless the applicant has held another site licence which has been revoked within the last three years. The authority can attach whatever conditions it considers necessary, but must have regard to the Model Standards issued by the Secretary of State for the Department of the Environment, Transport and the Regions (DETR).

In addition, park owners' bodies have taken a number of voluntary initiatives with the aim of raising standards within the industry. These include, for example, the promulgation of a Park Homes Charter, the establishment of a Pitch Fee Arbitration Scheme and the preparation of a model written statement.

Park home residents and their problems

Many home owners say that they enjoy the park homes way of life. However, home owners' bodies have drawn attention to the serious problems which some owners have experienced. They have argued that the protection offered to home owners should be strengthened and that the existing safeguards should be more consistently and effectively enforced. Park owners' bodies, meanwhile, have taken the view that only a small minority of park owners fail to conform to regulatory or best practice standards, and have expressed the fear that over-regulation would worsen the position by forcing the best park owners to leave the industry.

Home owners' bodies complain of:

- park owners putting unreasonable pressure on home owners to leave, for example, to clear the way for profitable redevelopment;
- park owners making excessive profits when home owners sell, through dubious application of the rules on maximum commission or vetoing prospective purchasers on specious pretexts and then buying in the home themselves at a knock-down price;

park owners failing to meet site licence conditions and local authorities failing to enforce them;

a new park owner enforcing unwelcome changes without consultation.

However, problems also arise because home owners often do not understand their rights and responsibilities and have failed to research these properly before buying.

Park Homes Working Party

The Government set up the Park Homes Working Party in 1998 to consider the operation of the existing controls on residential park homes and make recommendations on what changes, if any, were felt to be desirable to achieve a fair and workable balance between the needs and interests of park owners and home owners. It included three bodies representing home owners, two bodies representing park owners, the Local Government Association, the Chartered Institute of Environmental Health, and the Office of the National Assembly for Wales. The DETR chaired the Working Party.

Primary legislation would be needed to implement some of the Working Party's recommendations. In other cases, the Working Party has suggested the development of guidance material, including amendments to the Model Standards, and indicated support for good practice codes on harassment and site licensing, which are being produced in the course of current research projects commissioned by the DETR.

Recommendations

i) The written statement

- Where a prospective purchaser indicates he has a strong interest in purchasing a property, the statement should be provided a reasonable period in advance of the sale (say, about a month). Both parties should sign the statement at the time of the sale, and in the presence of witnesses. The pages of the statement should be numbered. Further consideration is needed on whether to make any amendment to the rules on appealing against the terms of the statement.
- The park owner should keep a copy of the statement. In the case of an assignment, he should be notified by the home owner before the assignment takes place. The park owner should be required to provide a copy of the statement in advance of the sale to the new assignee. A park

- owner's failure to provide a home owner with a copy of the statement should be made a statutory offence.
 - The Government should consider whether there is a case for a standard statement, or alternatively whether additional items should be added to the implied terms of agreements. A power should also be added to the Mobile Homes Act allowing the Secretary of State to issue statutory instruments to add extra items to the implied terms.
 - The industry's voluntary model statement should be reviewed following discussion by park owners' and home owners' bodies.
- ii) Park owner's approval to prospective purchaser
- The park owner's approval to the prospective purchaser should be deemed to have been given unless he expressly withholds it in writing, within a maximum period (eg 14/28 days). This requirement should only apply where the home owner has given proper notice to the park owner of the sale of the home. The onus should be on the park owner to demonstrate that a disposal is unacceptable. Alternatively, the park owner could be required to prove to a court that the purchaser was unacceptable before the sale could be prevented.
 - The flow of information to the home owner about the reasons for the withholding of approval, should be encouraged. A procedure should be developed whereby, in cases where the Data Protection Act applies, the home owner is able to gain information from the prospective purchaser, rather than the park owner, as to why an assignment has been refused.
- iii) Right of first refusal
- Park owners' and home owners' bodies should make their members aware of the fact that the legislation does not allow statements to include a right of first refusal for the park owner to purchase the home.
 - It should be open to home owners to purchase their sites collectively where the park owner places the park on the open market. Further consideration would be needed on whether additional rights should be granted to give home owners a right of first refusal. It might be possible for guidance to be developed for home owners on the responsibilities of park management.
- iv) Ending agreements on the grounds of the age and condition of the home
- The 'age' criterion for the ending of agreements should be deleted. The 'condition' criterion should only apply to the exterior of the home.
 - The Government should consider whether the 'five year' rule on the detrimental effect a home may have on the amenity of a park, should be deleted or amended, perhaps introducing a warning procedure for the park owner to indicate cases where homes are likely to fall into disrepair.
- v) Residents' Associations
- A procedure should be established for recognising residents' associations which meet specified criteria. Such associations should be given rights to information and to be consulted on specified matters by both park owners and local authorities.
- vi) The sale of utilities
- Suppliers of all utilities should give price information to consumers. There should be a new statutory duty to require resellers of water, and gas in both cylinders and bulk tanks, to provide information on charges to purchasers. The work under way to enable the electricity regulator to require information to be provided to the consumer should be welcomed.
 - A statutory maximum price should be introduced for the resale of gas supplied by cylinder and bulk tank, to bring the position into line with practice in respect of mains gas and other utilities. The work under way to introduce a maximum resale price for water should be welcomed.
 - Park owners' and home owners' bodies should review the industry charter to encourage and promote good practice within the industry on the supply and pricing of utilities. This might include whether the cost of utilities should be included in or excluded from the pitch fee, and whether home owners might be allowed to see evidence in support of the utility charges they are required to pay.
- vii) Harassment and illegal eviction
- The Caravan Sites Act 1968 should be amended to follow the terms of the legislation giving protection against harassment and illegal eviction to private rented tenants.

Good practice guidance emerging from research should be drawn to the attention of local authorities and they should be urged to act on it. This guidance should include recommendations on improving liaison between local authority Departments, the need for information on local authority contact points and other sources of assistance, and the importance of effective intervention by authorities.

The Government should consider further home owners' proposals on compensation and arbitration schemes.

viii) Pitch fees and commission

The Government should commission as soon as possible an independent study of the economics of the park homes industry, to identify the maximum level of commission to be set and give clarification of the items to be included in the calculation of the commission. The study should also identify the principles on which pitch fees should be set and reviewed.

ix) Site licensing

The Government should consider:

- Whether the licensee should be required to be a 'fit and proper person', and whether a statutory definition of 'fit and proper person' should be provided.
- Whether it is necessary and desirable to clarify the provisions on how the revocation of a licence would affect home owners, so as to ensure that their statutory rights would not be materially reduced following revocation.
- Whether local authority-owned parks should be covered by licence conditions, and how this might be brought about, including the possibility that a neighbouring authority might operate the licensing regime. Alternatively, whether good practice guidance should indicate that authorities should operate conditions on authority-owned parks in the same way as on privately-owned parks, but without the operation of a licensing system.
- Whether the system of fines and other penalties available to the court for breaches of licence conditions, should be strengthened, including encouraging authorities to use their powers to carry out repair works in default more frequently.

Whether there should be a requirement for authorities to be notified when parks change hands, or whether information on sales held by the Land Registry might be used to alert authorities to changes in park ownership.

Whether authorities should be put under a duty to attach, monitor and enforce conditions to licences. Authorities should also continue to have regard to the Model Standards in attaching conditions to licences.

Whether there should be a right for home owners to be consulted on, and to appeal against, licence conditions, and/or proposed changes in the conditions.

Whether to support consistent practice by authorities through encouraging the adoption of good practice guidance on the setting and monitoring of licence conditions (to be issued following research currently being undertaken).

Whether to amend the Model Standards to include additional items.

x) Non mobile homes legislation

Park owners' and home owners' bodies should agree a specification for home bases, to be adopted as general practice, perhaps by incorporating it into the Model Standards.

The Government should consider an amendment to the wording of Planning Policy Guidance 3: Housing, to ensure that the need for home parks is fully reflected in planning policies.

The Government should consider whether to amend the General Permitted Development Order 1995 to allow minor additions to park homes to be exempt from the need for planning permission on the same basis as already applies to bricks and mortar homes. This would be conditional on such additions being approved by the park owner and being consistent with the site licence conditions.

It would be helpful to have comments on the recommendations from interested individuals and bodies who have not already had a chance to contribute to the report, while the Department considers how best to take them forward. Please send these by 31 October 2000 to Michael Davis, Housing Private Rented Sector, DET, 2/H6 Eland House, Bressenden Place, London SW1E 5DU (e-mail: michael_davis@det.gst.gov.uk).