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| REPORT TO: | Housing and Community Services Committee | AGENDA ITEM: 7 |
| DATE OF MEETING: | 17th April 2014 | CATEGORY: DELEGATED |
| REPORT FROM: | Director of Housing & Environmental Services | OPEN |
| MEMBERS' CONTACT POINT: | Beverly Wagstaffe (01283 228759) | DOC: |
| SUBJECT: | Mobile Homes Act 2013 – Licensing of Residential Park Homes | REF: |
| WARD(S) AFFECTED: | All | TERMS OF REFERENCE: HCS01 |

1. Recommendations

- 1.1 Members approve the proposed draft Fees Policy (Appendix A) for Residential Park Home Sites as a basis for wider consultation.
- 1.2 That authority is given to the Director of Housing and Environmental Services in consultation with the Chair of this Committee, to agree any minor amendments to the draft policy arising from wider consultation prior to implementation from April 2015. Any proposed material amendments will be the subject of a further report to Committee.
- 1.3 That Members approve proposals to review all the existing Site Licences and attached Conditions for all of the existing Residential Park Homes across the district and that fees are not charged as part of this review.
- 1.4 Members give delegated powers to the Director of Housing and Environmental Services with regards to enforcement powers of the Caravan Sites and Control of Development Act 1960 as amended by the Mobile Homes Act 2013.

2. Purpose of Report

- 2.1 To inform Members of the changes brought about by the Mobile Homes Act 2013, including the introduction of fees and charges and additional enforcement powers for local authorities.

3. Detail

- 3.1 There are currently 20 licensed Residential Park Home Sites in South Derbyshire. These range from single unit sites to larger sites of approximately 60 units. In total, on the licensed residential sites there are 160 park homes.
- 3.2 The Mobile Homes Act 2013 (the MHA 2013) received Royal Assent on 26th March 2013. The MHA 2013 amended the Caravan Sites and Control of Development Act 1960 (the CSCDA 1960); the Caravan Sites Act 1968 (the CSA 1968) and the

Mobile Homes Act 1983 (the MHA 1983). It brought the licensing regime applying to park home sites in England under the CSCDA 1960 more closely in line with other Local Authority licensing regimes and also included a power to enable the Secretary of State to introduce by way of secondary legislation a “fit and proper” person requirement for managers of sites.

- 3.3 The rationale for the new provisions was that the existing law relating to park homes was ineffective and outdated. The law neither deterred the unscrupulous park home site owners from exploiting residents nor did it provide local authorities with effective powers to monitor or improve site conditions.
- 3.4 The MHA 2013 amended various parts of the earlier legislation by extending the scope of the offences, by removing the requirement for site owners to approve a purchaser of a park home (or a person to whom a park home had been gifted) and made new provisions for sales, gifts and assignments of park homes. It also introduced new requirements regarding site rules and provided a framework for greater transparency on pitch fee reviews whilst allowing Local Authorities to charge fees in relation to the licensing of park homes. The Act also included provisions affecting the way that Local Authorities may inspect and enforce licensed sites. Members should note that these amendments do not apply to holiday caravan sites or touring sites.
- 3.5 With regards to site licensing the MHA 2013 brings in a number of new provisions affecting the way that Local Authorities may issue, inspect and enforce licences. These provisions which came into effect on 1st April 2014 are as follows:
- Local Authorities will be able to charge the site owner a fee for applying for a new site licence as well as amendments to conditions attached to the licence or transfer of a site licence.
 - Local Authorities will be able to charge park owners an annual fee for the monitoring of the site licence; failure to pay the annual fee could lead to the site licence being revoked.
 - Local Authorities will be able to refuse to grant a site licence where it considers the applicant is unsuitable to hold a licence. Guidance on how local authorities can make this decision is expected to be published in the future.
 - Local Authorities will have a power to enforce licence conditions through a compliance notice. Failure to comply with a compliance notice is 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 and may eventually result in the revocation of the licence. If the licence holder does not comply with the compliance notice, the local authority can do the work in default and recover the costs.
- 3.6 With regards to site rules the site operator is now required to deposit these with the Local Authority. The Local Authority may charge for the deposit of the first site rules and any subsequent amended site rules.
- 3.7 The charging provisions within the MHA 2013 means that Local Authorities can now recover from the site owner the cost of exercising their Park Homes Licensing functions. However, before charging any fees, the Council must prepare and publish a fees policy in relation to recovering of costs. A proposed Fee Policy is detailed in Appendix A.

- 3.8 Guidance around the setting of fees has only recently been published, hence the timing of this Fee Policy being brought before Committee. Proposed fees have been calculated in accordance with the guidance with a proposed exemption from annual fees for single unit sites where the site operator is also the owner and occupier of the park home. The rationale for this exemption is that an owner-occupier is unlikely to make a complaint and the basis for the legislative changes was to deter unscrupulous park home site owners from exploiting residents.
- 3.9 Although the Council is not obliged to consult on this policy it is considered to be good practice. Furthermore, site owners may choose to pass their licence fee to the homeowner which they are permitted to do so. With this in mind, officers propose that Members defer charging until 1st April 2015, thereby giving time for consultation on the proposed Fee Policy and to allow both site owners and residents the opportunity to plan for these changes.
- 3.10 Some of the 20 Residential Park Home site licences have now been in existence for many years. As a result some of the Conditions attached to the Licences need updating to contain current regulations and legislation; for example electrical installations and fire safety. Existing provision within the CSCDA 1960 allows for the Council to review and amend Conditions. Therefore, it is proposed that all Residential Park Home Site Licences be reviewed during 2014/15 and that where this results in an amendment to either the Site Licence and/or attached Conditions that no charge is made to the site owner. This will mean that when the Fee Policy becomes operable from 1st April 2015 that sites are operating under a Licence which is relevant to the current site status.
- 3.11 Members may be aware that the Government publish Model Standards which set out what is normally to be expected as a matter of good practice in relation to conditions attached to the Site Licence. These are not prescriptive and the Council is expected to give due regard to the particular circumstances of the relevant sites. With this in mind there are some sites across the district where the park homes are privately rented. Unlike owner occupiers, these residents have little control over the condition and repair of the park home. The nature of a park home, i.e. it is a caravan not a building, means that the enforcement powers within the Housing Act 2004 to improve housing standards in the private housing sector cannot be used regarding park homes. Therefore, it is proposed that where there is evidence to suggest that a site owner is also a landlord, in so much that they also own the park homes on the site and privately let them for permanent residential use; that a condition is included to ensure the homes meet the minimum industry standard for permanent residential caravans. This provision would provide officers with powers under the CSCDA 1960 amended to regulate the standard of private rented park homes.
- 3.12 As the enforcing authority of the Caravan Sites and Control of Development Act 1960 (CSCDA 1960) as amended, Members are asked to give delegated powers in respect of the CSCDA 1960 as amended to the Director of Housing and Environmental Services who may amend the local Scheme of Delegation to give delegated powers to respective officers.

4. Financial Implications

- 4.1 If the proposed policy to charge fees is approved, the authority will begin to charge fees for new and existing residential park home sites from 1st April 2015.
- 4.2 Charging will enable the Council to recover some of the officer time and administrative costs associated with the Park Homes licensing function. Based on the existing 20 sites the annual fee income is estimated to be £3,200.

5. Corporate Implications

- 5.1 Ensuring that Park Homes are appropriately managed and maintained will contribute towards the Council's objective to deliver a range of housing options in a 'clean and safe' environment.