

**REVISION OF LICENCE CONDITIONS APPLICABLE TO MOBILE HOME AND CARAVAN SITES.**

Relevant Portfolio Holder	Cllr Kit Taylor
Portfolio Holder Consulted	Yes
Relevant Head of Service	Head of Community Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Key Decision - Yes	

**1. SUMMARY OF PROPOSALS**

1.1. This report provides Members with an update upon the introduction of the Model Standard Licence Conditions for Caravan and Mobile Home sites that were approved for phased implementation by the Cabinet in September 2008.

1.2. The report details the objections registered by both site owners and some of the site residents of the two sites that have so far been re-licensed in accordance with the 2008 standards. The objections relate to the impact upon them of specific requirements within the new Model Standard License Conditions that relate to the reduced permitted height of fences and hedges forming the boundary between units and to the spacing that is required where non combustible structures are placed between units.

1.3. The routine inspection process has also revealed a number of cases where the positioning of sheds, outhouses and other structures made of combustible material have been located within the 6 metre separation zone (between mobile home units), which is a contravention of the existing 1989 standards and applicable to all sites.

1.4. Attempts by the Private Sector Housing Officers to encourage compliance by both residents and site owners with these specific contraventions of the site conditions have been met with considerable opposition from residents affected, many of whom are reluctant to make the alterations required.

1.5. In response to this opposition and feedback from ongoing consultation with site owners and residents, the officers have met with the Fire Service to consider the most appropriate way of dealing with these issues.

1.6. The outcome of the discussions concluded that:

- The 2008 Model Standards be implemented only for the licensing of new sites, sites that have been substantially redeveloped, or those

sites where their current license conditions are inadequate in serving its purpose.

- Where the 2008 Model Standard Conditions are applied, 'Transitional Arrangements' need to be included within the Licence agreement allowing for contraventions of the standards to be risk assessed on an individual basis and enforcement undertaken where the level of fire risk is considered sufficient to necessitate action being taken.
- Contravention of existing 1989 Licence conditions, specifically where combustible structures are found to have been sited within the 6 metre separation zone between mobile homes should also be risk assessed on an individual case basis and enforcement undertaken only where the level of fire risk is considered sufficient to necessitate action being taken.

## **2. RECOMMENDATIONS**

- 2.1. That Members approve a revision to the 2008 Mobile Home Site License Conditions to include Transitional Arrangements (subject to a risk assessment) for existing residents as set out at Appendix 1.
- 2.2. That the phased approach to implementing the 2008 Model Standards be limited to the licensing of new sites and sites that have been substantially redeveloped.
- 2.3. That cases of non compliance with either the 1989 or 2008 site condition standards be considered on a case by case, risk assessed basis and enforcement undertaken where the level of risk is considered sufficient to necessitate action being taken.

## **3. KEY ISSUES**

### **3.1. Financial Implications**

- 3.2 There would be no significant financial implications associated with the implementation of the revised conditions and inclusion of '*Transitional Arrangements*' within the Mobile Home Site Licenses and attached conditions.
- 3.3 There will be an officer resource pressure experienced in terms of the officer's time in the undertaking of risk assessments for each case where Transitional Arrangements are being considered because an existing resident has a combustible structure situated within the separation zone or other similar contravention of licence conditions. In cases where it was considered that enforcement action needed to be

taken this work would have to be carried out as part of the normal workload of the officers from the Strategic Housing Team and the officers from the legal team.

**4. Legal Implications**

4.1. Local authorities licence various types of caravan sites under the provisions of the Caravan Sites and Control of Development Act 1960. Under Section 1 of the Act, no occupier of land is allowed to permit land to be used as a permanent residential caravan site unless he/she is the holder of a site licence. The Local authority can attach any conditions to the licence which is considers necessary or desirable in the interest of persons living in the caravans.

4.2. A licence holder may appeal to the Magistrates Court against the imposition of a condition in a licence or any proposed alteration to a condition or a refusal to alter a condition

4.3. Under section 5(6) of the 1960 Act the Secretary of State may from time to time specify model standards with respect to the lay-out and the provision of facilities, services and equipment for caravan sites or particular types of caravan site; and that in deciding what ( if any) conditions to attach to a site licence, the local authority shall have regard to any standards so specified. The model standards represent those standards normally to be expected as a matter of good practice on caravan sites.

4.4. New Model Standards were issues by the DCLG in 2008 to replace the previous 'Model Standards 1989'. These standards should be considered when applying licence conditions to new sites and sites that have been substantially redeveloped.

4.5. To assist Members in their consideration of the recommendations, the following extract is provided from the Model Standards Explanatory Notes issued by Department of Communities and Local Government for the Model Standards 2008 for Caravan Sites in England which state that:

***4.5.1. These standards should be considered when applying licence conditions to new sites and sites that have been substantially redeveloped. In considering variations to existing site licences or applications for new site licences for existing sites local authorities should consider whether it is appropriate for these standards to apply. In relation to variation of a licence the local authority must consult the site licence holder on its proposed variations and may wish to consult with residents***

*or a Residents' Association, where appropriate. Where a current licence condition is adequate in serving its purpose, the authority should not normally apply the new standard. Where it is appropriate to apply the new standard to a condition the local authority should be able to justify its reasons for doing so, having regard to all the relevant circumstances of the site. **In deciding whether to apply a new standard the local authority must have regard to the benefit that the standard will achieve and the interests of both residents and site owners (including the cost of complying with the new or altered condition).***

**4.5.2. The local authority must apply the Model Standards with regard to the particular characteristics of the site to which they are intended to apply, and in particular its existing layout and size. It is recognised that not all sites, will easily be able to meet the Model Standards in every case due to their particular characteristics, but a local authority will need to be able to justify any decision not to have regard to a standard in setting a licence condition.**

4.6. As set out at para 4.1 above, it is an offence for an occupier of land to operate a caravan site without holding the appropriate licence under the 1960 Act. It is also an offence (under section 9) for an occupier to breach a licence condition and on summary conviction the offender can currently be fined up to £2,500. This is the provision that would be relevant to any enforcement action under the new Revised Model Standards. The reason for this is that by not requiring the necessary works to be carried out by the residents the site owner would then be in the position of being in breach of the site licence. Any enforcement action would be taken against the site owner as opposed to individual residents of the site. Where there was any conflict between the actions of the site owner and the co-operation of the residents affected .i.e. they were unwilling to carry out the necessary works, officers would take this into account when deciding what enforcement action to take.

4.7. The explanatory notes for the 2008 Model Conditions state that local authorities when considering taking enforcement action should follow the Compliance Code for regulators.

## **5. Service/Operational Implications**

5.1. In 2003 the Council adopted a set of Mobile Home site license conditions based upon the 1989 Model Standards for all permanent residential home sites. Later, in 2008, the then Head of Planning and Environment Services recommended the adoption and phased

implementation of the more recently revised 2008 National Model Standards.

- 5.2. To date only two sites have been re licensed to the more recent 2008 Model Standards the other 11 sites remaining licensed under the 1989 site conditions. Under the phased approach to implementing the 2008 standards, sites have been considered as they change ownership or where substantial redevelopment has taken place.
- 5.3. Regular inspection of all 13 sites in the District takes place to monitor the level of conformity with Site Licence Conditions and overall, the level of compliance against the conditions set out in the 1989 Standards is in excess of 80% and the for the more recent 2008 Model Standards (where implemented) is over 70%. However, there are two specific conditions within the 2008 Model Conditions (one of which also featured in the 1989 standard conditions) where ongoing non compliance is evident and attempts by the officers to encourage conformity (other than by taking enforcement action) has met with strong opposition by residents and concern has been expressed by site owners who object to the standard being included in their site license conditions.
- 5.4. The specific conditions that are causing objection relate to the requirement to maintain a Separation Zone for the prevention of the transmission of fire of no less than 6m between mobile home / caravan units. Within this Separation Zone any structure that extends more than 1 meter into the Separation Zone will only be allowed if it is of non combustible construction (in both 1989 & 2008 standards) provided a 4.5 meter clear space can be maintained between it and the adjacent mobile home / caravan. The conditions also prescribe that fences and hedges forming a boundary between adjacent mobile homes / caravans should not exceed a maximum of 1 metre high (2008 standard only).
- 5.5. Since recent inspection and re-issue of site licenses it has become apparent that the conditions relating to protection of the fire Separation Zone between units is impacting quite significantly upon existing residents, a number of whom have non compliant combustible structures adjacent to their homes and boundary fences that exceed the 1 metre high standard.
- 5.6. In a number of cases, the contravention of these conditions by existing residents who have had combustible structures adjacent to their homes for many years is considered to be of a low risk by the Fire Officer (especially where the separation zone is found to be well in excess of the minimum 6 metre requirement).
- 5.7. A meeting with the fire Officer concluded that a common sense approach of risk assessing all cases where a contravention was

evident was the most appropriate way forward offering Transitional arrangements for existing owners. This would involve a risk assessment being carried out by the inspecting Private Sector Housing Officer and where the risk is assessed as being low, no action would be taken. However, where a unit changes ownership or a fence or shed is replaced they will be required to fully conform. Higher risk contraventions would have to be fully enforced.

5.8. Accordingly to enable this process to be put in place, a set of revised standards are attached to this report at Appendix 2 for member approval which include 'Transitional Arrangements' for existing residents that, subject to a risk assessment proving a low level of risk, would allow them to retain existing non conforming structures within the Separation Zone. Upon replacement of the structure or upon change of occupancy of the unit, the new Model Standard would be required.

5.9. The revised set of standards comes before Members for approval together with a recommendation that enforcement action be approved where the Transitional Arrangements cannot be allowed because a high level of risk has been identified by the Private Sector Housing Officers.

**6. Customer / Equalities and Diversity Implications**

6.1. When considering the impact of this report and the proposed alterations upon the residents of mobile home sites it is important to consider the demographic make up of such sites. Mobile home sites within Bromsgrove District are generally available for elderly residents to which have been specified by the site owners. There is however one site within the district that is not age specific. The proposed amendments therefore will be implemented across the district irrespective of age, belief, sexual orientation, race or gender.

6.2. The change is likely to affect a higher proportion of older people and those with mobility issues; the rationale for making the amendments is to promote the personal safety of those residing on mobile home sites. Therefore it is considered that whilst a disproportionate number of older people and those with mobility issues are affected, this change is intended to protect their well being.

6.3. Residents may be expected to make changes that may result to ensure compliance which may result in them having to pay for additional works or removal of existing items. Whilst this would disproportionately affect older people and those with mobility issues it is considered that making the site safe is of paramount importance and therefore the adverse impact is justifiable.

6.4. It has therefore been considered that the benefits of complying with Central Government legislation and therefore the Councils duty to enforce non compliance out weighs any minimal equality and diversity issues that may arise.

**7. RISK MANAGEMENT**

7.1. The main risks associated with the details included in this report are: -

- If the 'hard line approach' is maintained when undertaking enforcement action there may be an increase in homelessness figures for the district as increased enforcement action and level of fines may result in site owners closing down sites thus resulting in displacement issues.
- Significant increase in enforcement activity may result in increased demand on workload not only internal to the Strategic Housing Department but also may increase pressure on the Legal & Democratic Services department in terms of taking prosecution.

7.2. These risks are being managed by the following risk register as follows:

Risk Register: Planning & Environment  
Key Objective Ref No: 4  
Key Objective: Provide an effective, efficient and legally compliant Housing Service

**8. APPENDICES**

Appendix 1 – Revised 2008 Model Standards and Conditions

**9. BACKGROUND PAPERS**

Model Standards Explanatory Notes provided by Department of Communities and Local Government for the Model Standards 2008 for Caravan Sites in England  
Caravan Site Register  
License Conditions: Residential Caravan Sites  
BERR Regulators Compliance Code  
Model Standards 2008-Caravan Sites in England

**10. AUTHOR OF REPORT**

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