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NON-EXEMPT

# HAVANT BOROUGH COUNCIL

## Council

21st September 2021

## Caravan Site Licensing (residential sites): Fit and Proper Determination Policy

### FOR DECISION

Portfolio Holder: Cllr Narinder Bains, Cabinet Lead for Community Safety and Organisational Development

Key Decision: No

Report Number: *HBC/259/2120*

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### 1. Purpose

1.1. This paper is submitted to the Council for policy decision and to meet a statutory requirement. At its meeting held on 14 September the Licensing Committee considered the attached policy and made the recommendation set out in 2 below.

### 2. Recommendation

2.1. It is recommended that Council approve the submitted Caravan Site Licensing: Fit and Proper Person Determination Policy 2021-2026, and the appended Fee Procedure

### 3. Executive Summary

3.1. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the manager of a site to be a Fit and Proper Person (“the Regulations”). Local authorities are accordingly required to introduce a fit and proper person test for mobile home site owners, or the person

appointed to manage the site, unless they are eligible for an exemption under the Regulations.

- 3.2. The Regulations, made on 23 September 2020, allow local authorities to receive applications from site owners, or the person appointed to manage the site, from 1 July 2021 up to and including 30 September 2021 for existing sites.
- 3.3. The council must be satisfied that the site owner “*is a fit and proper person to manage the site*” or, if the owner does not manage the site, “*that a person appointed*” to do so by the site owner “*is a fit and proper person to do so*” or has, with the site owner’s consent, “*appointed a person to manage the site.*”
- 3.4. Where a site owner or their manager fails the fit and proper person test, and they are unable to identify and appoint a suitable alternative manager, who must pass the fit and proper person assessment, the council can instead appoint a person to manage the site, but only with the consent of the site owner.
- 3.5. Principally, the fit and proper person test applies to a “relevant protected site”. A relevant protected site is a site, which requires a licence and which is not solely for holiday purposes or is otherwise not capable of being used all year round. The fit and proper person requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying mobile homes on the site i.e. park home owners. This policy and the accompanying appendices will enable the council to apply The Regulations appropriately.

#### **4. Additional Budgetary Implications**

- 4.1. None

#### **5. Background and relationship to Corporate Strategy and/or Business Plans**

- 5.1. This policy contributes to achieving the theme titled ‘A safe environment, healthier and more active residents’, within the Havant Borough Council Corporate Strategy 2020-24

#### **6. Options considered**

- 6.1. Approve the policy and appended Fee Procedure. This will support the council in the decision making process for Fit & Proper Person applications, and provide clear instruction as to how we will approach situations where it is decided that an applicant has failed the fit and proper person test.
- 6.2. Do Nothing – This would mean we do not have a reliable decision making process in the event of a person applying who does not meet the fit and proper person criteria.

## **7. Resource Implications**

### **7.1. Financial Implications**

The financial implications are not significant. As per the Fee Procedure the average time taken to process a Fit and Proper Person application is approximately 9 hours. However by our estimation there is just 1 caravan site in the borough that this piece of legislation would apply to.

We are able to recover the cost of this work to the council by way of a licence fee. Details of this fee have been provided in the Fee Procedure and Fee Calculation included as appendices. We have determined that the fee to accompany an application would be £246, this is in line with other local authorities.

### **Section 151 Officer comments**

Date: 12<sup>th</sup> August 2021

It is expected that the licence fee will cover the costs of administration. Therefore this proposal is within current budgets.

### **7.2. Human Resources Implications - None**

### **7.3. Information Governance Implications**

The council must set up and maintain a register of persons who they are satisfied are fit and proper persons to manage a site in their area. This register must be open to inspection by the public during normal office hours. This register also must be published online.

The register will provide a record of the outcome (as discussed above) of the fit and proper person tests the council have carried out for sites. There is a template available on the Government Guidance, and the register must include the following:

1. the name and business contact details of the person;
2. the name and address of the relevant protected site to which the application relates;
3. the status of the person (site owner or manager of the site);
4. the dates of the first and last day of the period for which the person's inclusion in the register has effect;
5. whether any condition is attached to the person's inclusion in the register, and where any condition is attached to the person's inclusion in the register
7. the number of any such conditions;
8. the dates of the first and last day of the period for which any such condition applies (if applicable), and the date any condition is varied or satisfied (if applicable).

The team will liaise with the Data Protection Officer to ensure all necessary steps are taken to ensure compliance with Data Protection legislation

7.4. Links to Shaping our Future Programme

No links, this relates to a statutory requirement

**Shaping our Future Lead comments/sign-off**

Date: 27<sup>th</sup> July 2021

There are no implications for the Shaping our Future Programme.

7.5. Other resource implications - None

**8. Legal Implications**

8.1. None

## **Monitoring Officer comments**

Date: 21<sup>st</sup> July 2021

The Regulations require that the Council assess whether persons are fit and proper persons to manage non-commercially family occupied sites. In coming to a determination the matters identified at paragraphs 2 to 4 Schedule 3 of the Regulations must be considered. These matters are satisfactorily contained in the Guidance

### **9. Risks**

- 9.1. If we do not implement a policy for this purpose, we would not have a reliable decision making process to use in the event of a person making an application, who does not meet the fit and proper person criteria.

### **10. Consultation**

- 10.1. None required

### **11. Communication**

- 11.1. Letters will be sent from Environmental Health to the existing site operator in the borough.

### **12. Appendices**

- 12.1. Caravan Site Licensing: Fit and Proper Determination Policy  
FIPP Fee Procedure  
Fee calculation

### **13. Background papers**

13.1. None

Agreed and signed off by:

Portfolio Holder: Narinder Bains 20/07/2021

Director: Simon Jenkins 02/07//2021

Monitoring Officer: Surinder Atkar 21<sup>st</sup> July 2021

Section 151 Officer: Mathew Tiller 12<sup>th</sup> August 2021

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