

East Herts Council Report

Executive

Date of meeting: Tuesday 5 September 2023

Report by: Councillor Sarah Hopewell – Executive Member for Wellbeing

Report title: Fit and Proper Persons Determination Policy for Mobile Homes Sites

Ward(s) affected: All

Summary – Changes to the legislation regulating mobile homes sites now require that all licensed residential mobile homes sites are operated by someone who has passed a suitable ‘fit and proper person’ check. These regulations were enacted to protect tenants from illegal behaviours including harassment and financial exploitation.

This paper seeks approval of a new policy and fees relating to the fulfilment of this requirement for mobile homes sites in East Hertfordshire.

RECOMMENDATIONS FOR Executive:

- a) Approve the ‘Fit and Proper Persons Determination Policy for Mobile Homes Sites’**
- b) Approve the structure for charging set out in section 13 of the ‘Fit and Proper Persons Determination Policy for Mobile Homes Sites’**
- c) Approve the application fee of £180 for the assessment of the fit and proper persons check and inclusion on the fit and proper persons register, subject to an annual increase in line with the council’s fees and charges strategy**

- d) Approve the 'appointment of a manager' fee of £51 per hour or part thereof, plus the employment cost of the manager (including agency fees if applicable), subject to an annual increase in line with the council's fees and charges strategy.**
- e) Delegate the authority to make minor amendments to the policy to the Head of Housing and Health in consultation with the Executive Member for Wellbeing.**

1.0 Proposal(s)

- 1.1 This report seeks to gain approval for the introduction of a 'fit and proper persons' determination policy and fee structure for mobile homes sites as required by the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, hereon in referred to as "the Regulations".

2.0 Background

- 2.1 The Regulations prohibit the operation of 'relevant protected sites' in England unless the site owner or a person appointed to manage the site, satisfies the relevant local authority that they are a fit and proper person to manage the site.
- 2.2 For the purposes of the legislation and clarity in this report a relevant protected site is in essence one that is residentially occupied all year round. Such sites may range from a single caravan on a plot of land to many caravans on land in single ownership and includes residential caravans on holiday sites.
- 2.3 At the time of writing the report, East Herts has ten licenced mobile homes sites which will be covered by this new legislation, these are listed in the table below.

Site Name	Postcode
Ashleigh Park	SG11 1BH
Bayford Wood Mobile Home Site	SG13 8PY
Bells Wood Caravan Site	SG13 8PY
Club Cottage Caravan Site	AL6 0NH
Contessa Riding Centre	SG11 1EN
Great Hadham Country Club	SG10 6JE
Hooks Cross Caravan Park	SG14 3RX
Nine Acres	SG11 1BA
Puckeridge Park Homes	SG11 1UP
The Stables	SG13 8PR

2.4 The Policy attached as Appendix A details the assessment that the Environmental Health Team will undertake to determine whether someone is a 'fit and proper person' along with how it will respond to the outcomes of a Disclosure and Barring Service (DBS) check should this investigation highlight any relevant convictions.

3.0 Public Register

3.1 The Regulations require the council to set up and maintain a register of persons who have passed the 'fit and proper persons' checks and are able to manage a site in their area. This register must be open to inspection by the public during normal office hours and to allow maximum access it is proposed that it will also be available via our website.

3.2 It must be noted that the name of rejected applicants will not be included on the register. The council will however be able to consider requests for further information about the entry on the register, for example, the details of the specific conditions attached and any additional information, on a case by case basis and in accordance with data protection legislation.

4.0 Application Fees

4.1 The council can charge fees on a cost-recovery basis. The council believes that the administration of the fit and proper person assessment and/or checks to be included on the fit and proper register will incur costs to the council of £180 per application. This cost includes the time taken to update and publish the public register.

4.2 Fees will be reviewed annually in line with the council's published fees and charges strategy and will be based on time recording undertaken by officers while processing the applications.

5.0 Appointment of a manager fee

5.1 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.

5.2 Where the council is provided with the site owner's consent to appoint an individual to manage a site, it is proposed that the costs associated with arranging this work will be charged at £51 per hour or part thereof.

5.3 In addition, the employment costs for the manager (including agency fees if applicable) will also be charged to the site owner.

6.0 Payment of fees

6.1 The council will not consider an application for entry on the register unless that application is accompanied by the correct fee. If the correct fee is not paid, the application will not be valid and the site owner could be in breach of the Regulations.

6.2 If the council decides not to approve an application the applicant is not entitled to a refund of the fee paid.

6.3 If the applicant decides to withdraw their application after work has started to process the application, the applicant is not entitled to a refund of the fee paid.

7.0 Reason(s)

7.1 Executive's approval of this policy will help to ensure fair, consistent and transparent application of these new Regulations across East Hertfordshire.

7.2 Executive's approval of this fee structure will help to ensure fair, consistent and transparent fee structure which allows the council to undertake this work on a cost-neutral basis.

8.0 Options

8.1 The council could decide to not have a 'fit and proper person' determination policy. This is **not recommended** because the council would be failing its legal duties to protect the residents of residential mobile homes sites and thus could open itself up to a challenge or judicial review which would be hard to defend.

- 8.2 The council could decide to adopt a revised version of the proposed 'fit and proper persons' determination policy. This is **not recommended** as the proposed policy is consistent with others across England and, officers argue, contains the correct balance between protecting the residents of residential mobile homes sites and the ability of the owners of the sites to legitimately operate.
- 8.3 The council adopts the proposed 'fit and proper persons' determination policy. This is **recommended** as the best course of action.

9.0 Risks

- 9.1 Failing to adopt a 'fit and proper persons' determination policy could lead to undue risks to the health and safety of residents of mobile homes sites in East Herts.
- 9.2 Failing to adopt and/or then follow the policy (if/when adopted) could lead to successful claims against the council at the First-tier Tribunal (Property Chamber) and a loss of reputation for the council. Audit of officers' work by senior officers will help ensure this doesn't happen.

10.0 Implications/Consultations

- 10.1 The council has consulted with the current mobile homes site licence holders and placed the consultation on its website.
- 10.2 [to be completed once consultation closes on 25/08/2023] number of consultation responses were received.

Community Safety

No

Data Protection

No

Equalities

No

Environmental Sustainability

No

Financial

Yes – Finance consulted.

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

Yes – Legal consulted.

Specific Wards

No

11.0 Background papers, appendices and other relevant material

- 11.1 Appendix A - Fit and Proper Persons Determination Policy for Mobile Homes Sites

Contact Member

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