



REPORT TO: POLICY AND RESOURCES ON 27 NOVEMBER 2018

SUBJECT: CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee of the changes to legislation in respect of the licensing of residential caravan sites and the timetable for implementing these changes.
- 1.2 This report is submitted to Committee in terms of Section III (B) 48 of the Council's Scheme of Administration relating to approval discretionary charges for Council services in accordance with policy.

2. RECOMMENDATION

2.1 It is recommended that the Committee:

- (i) note that the Housing (Scotland) Act 2014 has made significant changes to the Caravan Sites and Control of Development Act 1960 in respect of the licensing of residential caravan sites;**
- (ii) note the changes to the licensing of residential caravan sites including the establishment of a fit and proper person test in respect of the applicant for a residential caravan site licence and any person involved with the day to day management of the site (including a site manager appointed by the site owner to manage the site);**
- (iii) note that those who already hold a site licence issued under the previous licensing regime have to be licensed in terms of the new regime by 1 May 2019; and**
- (iv) agree the fees to be charged for handling a first site licence application and for a licence renewal as set out in Appendix 2 to this report.**

3. **BACKGROUND**

- 3.1 Caravan Site Licences are currently issued under delegated powers in terms of the Caravan Sites and Control of Development Act 1960 ("the 1960 Act"). At present, the essential elements of this licensing regime are:-
- (a) The Council cannot refuse a caravan site licence unless the applicant is not, at the time when the site licence is issued, entitled to the benefit of a permission for the use of the land as a caravan site granted under planning legislation;
 - (b) The Council is entitled to impose conditions on the grant of a caravan site licence and must have regard to model conditions issued by the Scottish Ministers when determining what (if any) conditions to attach to a site licence; and
 - (c) The Council grants permissions for mainly three types of use (touring, holiday static and residential static). Some sites can have mixed uses at the same site.
- 3.2 The Housing (Scotland) Act 2014 has made significant changes to the 1960 Act. Committee is specifically asked to note that these changes only relate to sites licensed to have permanent residents. The current sites that are affected by these changes are indicated in **Appendix 1**.
- 3.3 The main changes to the licensing of residential caravan sites can be summarised as follows:-
- (a) Licences granted last for 5 years and must be renewed.
 - (b) Applications for licences and for transfers and renewal of licences can be refused if the applicant or any person involved with the day to day management of the site (including a site manager appointed by the site owner to manage the site) is found not to be a fit and proper person to hold a site licence.
 - (c) A site licence can be revoked if the applicant or any person involved with the day to day management of the site (including a site manager appointed by the site owner to manage the site) is found not to be a fit and proper person to hold a site licence.
 - (d) The Council is entitled to charge fees for the first application for a site licence and for a renewal of a site licence.
 - (e) The Council can reclaim the expenses of enforcement action.
 - (f) The Council has a number of options in relation to enforcement. These are:-
 - i. the power to serve an improvement notice on a site owner, to require them to carry out work to comply with a licence condition;

- ii. the power to impose a penalty notice which would suspend pitch fee payments (other than for utilities) and the commission a resident pays to the site owner on the sale of their mobile home, if the site owner failed to comply with an improvement notice;
 - iii. the power to revoke a site licence in certain circumstances;
 - iv. making provision for an interim manager to take over the running of the site in specific circumstances, such as when a site licence is revoked, or a Local Authority has refused to renew a licence;
 - v. the power to carry out work on a site urgently (whether or not that site has a licence) when the licence holder is failing, or has failed, to comply with a site licence condition, or if the site has no licence; and as a result of that failure there is an imminent risk of serious harm to the health or safety of any person who is or may be on the land; and
 - vi. increasing the maximum criminal penalty for the offences of non-compliance with licence conditions to a maximum of £10,000. The fine for operating without a site licence once the new system is in force will be a maximum of £50,000. It will be for a sheriff to decide if a licence holder has failed to comply with a licence condition or has been operating a site without a licence, and how much any fine should be.
- (g) Applications for residential site licences will be received and processed under delegated powers. The Council has three months to make its decision on an application. If the Council is considering refusing an application then it must tell the applicant why. The applicant then has 28 days to make written representations. The Council must consider the representations from the applicant before it makes its final decision. If the Council refuses a site licence application, an applicant can appeal against that decision. A sheriff will hear the appeal. If the Council is considering revoking a site licence then the same process applies.
- (h) The Scottish Ministers have the power to issue guidance. A Local Authority must have regard to any guidance published when carrying out its functions under the 1960 Act.

3.4 In terms of fees, the fee must not exceed an amount which a Local Authority considers represents the reasonable costs of the Authority in deciding a relevant permanent site application. Guidance on the calculation was issued by Scottish Government and the fees recommended have been calculated in consultation with accountancy. It is recommended that a graded fee be charged based on the number of residential caravans permitted on the site and as set out in **Appendix 2** to this report.

4. SUMMARY OF IMPLICATIONS

- (a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Contributes towards priorities of Growing a diverse and sustainable economy and Healthier Citizens

(b) Policy and Legal

None.

(c) Financial implications

The proposed charges given in Appendix 2 represent a reasonable estimation of cost in relation to the processing of Site License applications and renewals calculated as per the Scottish Government guidance in consultation with accountants.

(d) Risk Implications

Residents put at risk by residential sites not being operated by a fit and proper person if the licensing regime is not implemented. Increased costs to the Council if the charges are not implemented.

(e) Staffing Implications

The workload created can be accommodated within the current staffing levels

(f) Property

None

(g) Equalities/Socio Economic Impact

An equality impact assessment will be undertaken when implementing the recommendations

(h) Consultations

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, the Head of Legal and Democratic Services, the Equal Opportunities Officer, the Head of Financial Services and the Democratic Services Manager have been consulted and comments received have been incorporated into the report.

5. CONCLUSION

5.1 A new licensing regime for residential caravan sites has been introduced which includes a fit and proper person test.

5.2 The Council can charge a realistic fee for the granting of the licence and the licence is limited to five years

5.3 The Council will have additional powers to ensure license conditions are adhered to.

Author of Report: Russell Anderson, Environmental Health Officer
Background Papers:
Ref:

