



TITLE OF CONSULTATION: CARAVAN SITE AND CONTROL OF DEVELOPMENT ACT 1960 – FIT AND PROPER PERSON (F&PP) TEST

OFFICER REQUESTING: PROGRAMME DIRECTOR FOR ECONOMIC DEVELOPMENT, BUSINESS AND PARTNERSHIPS
PHILLIP SPURR

1.0 PURPOSE

1.1 Approval is sought to adopt a Fit and Proper Person Fees Policy and a Determination Policy and to support the introduction of the Fit and Proper Person test (F&PP) in relation to caravan site licensing (residential sites) which came into force on the 1st July 2021.

2.0 RECOMMENDATIONS

2.1 It is recommended that:

- (i) The Chief Executive in consultation with the Vice Chair of Policy & Resources Committee notes the new duty to undertake a Fit and Proper Person test in relation to caravan site licensing and approves the charging of a fee of £226.91 per application which will be reviewed as part of the Council's annual fees and charges processes.

3.0 REASON FOR RECOMMENDATION(S)

3.1 This is a new function for the Local Authority, enabling us to recover costs in accordance with an adopted Fees Policy. The approval of the fees and determination policies will support the performance of a new and important statutory function.

3.2 As the Fit and Proper Person test and the subsequent licences have to be completed by the 30th September 2021, as prescribed by legislation, if the report was submitted at the Policy and Resources meeting on the 23rd September 2021, this would be insufficient time to accurately process and turn around the application forms received for the sites in question. The information relating to the new policies was made available at the end of June. This was due to delays in respect of the legal opinion and training in the new legislation which was undertaken on the 16 July, consequently the deadline for the July Policy and Resources committee meeting could not be achieved.

4.0 SIGNIFICANT RISKS

4.1 To not agree the Fees Policy and Determination Policy would result in applications being received without any charging policy in place and no means of assessment.

- 4.2 All residential sites must have the Fit & Proper Person in place to manage the relevant sites by the 1st October 2021.
- 4.3 By not adopting the Determination Policy, it increases the risk of challenges to decisions made in relation to the Fit and Proper Person test.

5.0 IMPLICATIONS

5.1 The following implications have been identified:

a) Financial

Adopting the fee will ensure that the Ryedale District Council can recover the costs associated with delivering this process. If the fee cannot be set, the Council will not recover costs incurred with the process. The fee relates to currently 2 sites in Ryedale. The site fees are proposed to be set at £226.91. Finance have been consulted regarding the fee and the policy and have no comments regarding it. The Fees policy has been reviewed and signed off by the Council's 151 Officer.

b) Legal

Failure to adopt The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 leaves the Council open to the challenge of failing in its statutory duty. Adopting the Determination Policy will enable the Council to make decisions and reduces the risk of successful challenges to decisions. Not adopting the Determination Policy increases the risk of challenges to decisions made in relation to the F&PP test.

Through the Local Authority Caravan Site Licensing Officers' Forum which has over 200 local authority members, a specialist barrister was instructed to provide legal opinion which has been obtained with regards to the above legislation and in the preparation of both policies. The legal advice that has been received and is being used by all Local Authorities has also been shared with Ryedale Legal Shared Services who have reviewed the documentation and have no further comments to add.

c) Other

Staffing within existing resources,
Planning none, sites already in existence,
Crime & Disorder- to ensure that site are managed by fit and proper persons. The new legislation allows for us to request a DBS check to ensure that there are no convictions that would prohibit them from being licensed to manage the site in a safe and proper manner. We can also request information relating to the sites financial standing and whether they have procedures in place to ensure that customer complaints can be dealt with in a timely and reasonable manner.

6.0 MONITORING OFFICER ADVICE

As this matter would normally have been dealt with by the Policy and Resources Committee, the Vice Chair of that Committee (in the absence of a Chair) should be consulted. Although this item would normally have been referred on to Full Council, as it is a matter of policy, rather than process, it is not recommended that the Chair of Council be consulted.

7.0 CONSULTATION RECORD

According to the Constitution, under urgency powers, decisions usually taken by the Council and its committees are taken by the CEO following consultation with the appropriate elected members.

The appropriate elected members are:

- The Leader of the Council
- The Chair of the appropriate committee, for matters relating to that specific committee¹
- Relevant Ward member(s), if any, for matters of particular relevance to that ward²

Name of consultee	Cllr Dinah Keal – Vice Chair of Policy and Resources Committee (Acting as the Chair)
Councillor Keal was supportive of the proposals.	
Date consultation completed	06-09-21

8.0 DECISION

Decision of the CEO based on consultation	The recommendation is approved.
Date	06-09-21

¹ “Chairman of the appropriate Committee” refers to committee specific matters and does not mean that all Committee Chairs will be consulted on everything

² “Relevant Ward Member(s), if any” refers to ward specific matters and does not mean that all Members will be consulted on everything