

ANGUS COUNCIL

SPECIAL CIVIC LICENSING COMMITTEE – 16 MAY 2019

NEW APPLICATION – RESIDENTIAL CARAVAN SITE  
SEATON ESTATE HOLIDAY AND RESIDENTIAL VILLAGE, SEATON ROAD, ARBROATH

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

**ABSTRACT**

The purpose of this report is to present a new application for a residential caravan site licence under the Caravan Sites and Control of Development Act 1960 which requires to be determined by the Committee.

**1. RECOMMENDATION**

It is recommended that the Committee consider and determine an application for a caravan site licence in terms of the Caravan Sites and Control of Development Act 1960, in terms of one of the following options:-

- (i) to grant the application;
- (ii) to grant the application subject to the Model Standards for Residential Mobile Home Site Licences produced by the Scottish Government and any additional conditions;
- (iii) to determine that the Committee is considering refusing the application; in which case notice must be given to the applicant stating that:-
  - a) the licensing authority is considering refusing the application and its reasons for doing so; and
  - b) the applicant has the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).

**2. REPORT**

- 2.1 This Committee, at its meeting on 6 April 2017 considered a report in relation to changes in respect of the licensing of residential caravan sites (Report 446/17 refers). This report described the changes to the Caravan Sites and Control of Development Act 1960 (“the 1960 Act”) and, in particular, the requirement that applicants for site licences must be considered fit and proper persons to be granted a site licence. All current caravan sites licensed for residential occupation must re-apply for a new licence under the new legislative requirements.
- 2.2 An application has been received for a residential caravan site licence from Crown Parks Limited in respect of Seaton Estate Holiday and Residential Village, Seaton Road Arbroath. The maximum number of caravans proposed to be stationed at any one time for the purposes of residential use is 325. In addition it is proposed that there will be 304 holiday and 25 touring caravans. The site plan of the Park is attached as **Appendix 1** to this report.
- 2.3 The Environmental and Consumer Protection, Building Standards, Housing and Development Standards Services of the Council were consulted on the application and their responses are to follow. No response has been received from the Housing Service.

### 3. LEGAL IMPLICATIONS

- 3.1 Part 1A of the Caravan Sites of Control of Development Act 1960 regulates the licensing of caravan sites with permanent residents. Section 32D of the 1960 Act provides that a local authority may issue a Part 1A site licence if:-
- (a) the applicant is, when the Part 1A site licence is issued, entitled to the benefit of planning permission for the use of the land as a relevant permanent site otherwise than by a development order; and
  - (b) the authority is satisfied:-
    - (i) that the applicant is a fit and proper person to hold a site licence;
    - (ii) in the case where an applicant is not a natural person, that the individual who holds the most senior position within the management structure of the relevant partnership, company or body is a fit and proper person in relation to a site licence;
    - (iii) that any person to be appointed by the applicant to manage the site is a fit and proper person to do so; and
    - (iv) in the case where a person to be appointed by the applicant to manage the site is not a natural person, that any individual who is to be directly concerned with the management of the site on behalf of that manager is a fit and proper person to do so.
- 3.2 Section 32 of the 1960 Act provides that in deciding under Part 1A if a person is a fit and proper person, the local authority must have regard to all of the circumstances of the case, including any material falling within the following:-
- (1) Material which shows that a person has:-
    - (a) Been convicted of an offence:-
      - (i) involving fraud or other dishonesty,
      - (ii) involving violence,
      - (iii) involving drugs,
      - (iv) involving firearms,
      - (v) which is a sexual offence within the meaning of section 210A(10) of the Criminal Procedure (Scotland) Act 1995.
    - (b) Practised unlawful discrimination on the grounds of any of the protected characteristics in Part 2 of the Equality Act 2010.
    - (c) Contravened any provision of—
      - (i) the law relating to caravans,
      - (ii) the law relating to housing,
      - (iii) landlord and tenant law,
    - (d) Committed a breach of an agreement to which the Mobile Homes Act 1983 applies.
    - (e) Contravened a direction made under section 44 of the Electricity Act 1989 (c.29) (maximum prices for reselling electricity).
    - (f) Contravened a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002 (asp 3) (charges schemes) as it applied to the person by virtue of section 30(1) of that Act

(maximum charges for services provided with help of Scottish Water),

(g) Engaged in antisocial behaviour within the meaning of section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004.

(h) Breached the conditions of a site licence issued under Part 1 or Part 1A of this Act.

(2) Material which shows that a person has a conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974 does not fall within (1) above.

(3) Material falls within the material the local authority must have regard to if it relates to the failure by a person to provide information which that person is required to give to the local authority in accordance with Part 1A of the 1960 Act.

(4) Material falls within the material the local authority must have regard to if it relates to a complaint made by a person of which the local authority is aware about antisocial behaviour within the meaning of section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 on the caravan site.

(5) Material falls within the material the local authority must have regard to is material of which the local authority is aware as a result of any other function carried out by the authority and it appears to the authority to be relevant to the question of whether the person is a fit and proper person.

3.3 Section 32D of the 1960 Act provides that before refusing to issue or renew a Part 1A site licence, the authority must give to the applicant a notice stating that:-

(a) it is considering refusing the application and its reasons for doing so; and

(b) the applicant has the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).

3.4 Section 5(1) of the 1960 Act provides, that a site licence issued by a local authority in respect of any land may be so issued subject to such conditions as the authority may think it necessary or desirable to impose on the occupier of the land in the interests of persons dwelling thereon in caravans, or of any other class of persons, or of the public at large. In additions, section 5(6) of the 1960 Act provides that the Scottish Ministers may from time to time specify for the purposes of this section model standards with respect to the layout of, and the provision of facilities, services and equipment for, caravan sites or particular types of caravan site; and in deciding what (if any) conditions to attach to a site licence, a local authority shall have regard to any standards so specified. The Scottish Ministers issued new Model Standards in relation to Mobile Home Sites with Permanent Residents in April 2017.

3.5 If the licence is granted, the 1960 Act (as amended) permits the Council to take action against the licence holder (or site manager) should information come to light to suggest that they might no longer be a fit and proper person. This could lead to the licence being revoked. The Council can also:-

(a) serve an improvement notice should a condition of the licence not be met (and carry out and charge for the work required if not undertaken in the timescale specified in the notice);

(b) take emergency action if a condition of a licence is not being met and there is an imminent risk of serious harm to the health or safety of any person who is or may be on the land;

- (c) serve a penalty notice if there has been a failure to comply with an improvement notice. The service of a penalty notice means that no amount which a person is required to pay to the occupier of the site in respect of the right to station a caravan on the site, rent for the occupation of a caravan on the site or the use of the common areas of the site and their maintenance is payable for the period specified in the notice; or
- (d) apply to the Sheriff to appoint an interim manager of a relevant permanent site if a licence is refused (on first grant or renewal) or revoked.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications arising from this report.

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