

ANGUS COUNCIL

SPECIAL CIVIC LICENSING COMMITTEE – 3 JULY 2019

NEW APPLICATION – RESIDENTIAL CARAVAN SITE
WOODLEY CARAVAN PARK, BY 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 Derek William Alexander Keillor in respect of Woodley Caravan Park, Arbroath. The maximum number of caravans proposed to be stationed at any one time for the purposes of residential use is 32. The site plan of the Park is attached as **Appendix 1** to this report.
- 2.3 The Environmental Health, Consumer Protection, Building Standards, Housing and Development Standards Services of the Council were consulted on the application.

2.4 The Environmental Health Service has advised:-

Generally conditions on the site were noted to be satisfactory, however the following matters were drawn to Mr Keillor's attention:

- An up to date site plan showing the permanent residential caravans clearly marked requires to be provided.
- Some of the roads within the site will require to be widened to meet minimum standards.
- Hardstandings at some of the stances require to be extended to provide a minimum 0.9m projection from the caravan entrance.

It was also ascertained that Mr Keillor owns 31 of the 32 permanent residential caravans. It is likely that some of these will require to be repaired or replaced during the lifetime of any licence issued in accordance with the new provisions.

2.5 The Building Standards Service has advised that their records are limited to 25 years and can find no Building Warrant applications in relation to this site over this time. If the drainage was installed over 25 years ago we would have no comments to make, however, if the drainage was installed for the caravans within the last 25 years it would have required a Building Warrant and Completion Certificate.

2.6 In relation to planning, the Development Standards Service has advised:-

I have reviewed the planning history associated with the site.

I understand that planning permission was originally granted for the use of land at this location as a caravan site in 1959 (permission 3445) refers. I further understand that the permission was not subject of any conditions that restricted the period during which caravans could be occupied or the nature of the occupation. I do not have access to a plan that shows the extent of land covered by that permission but a corresponding license drawing from around 1961 appears to suggest that at that time the extent of the site was limited to around 4000sqm.

In 2005 a planning permission was granted (05/00069/FUL) that provided for change of use of part of the caravan site to allow the siting of static caravans. That permission was subject to a number of conditions, including a condition stating: -

'That none of the caravans shall be continuously occupied by the same individual or group of individuals for a period exceeding eight weeks.'

In 2007 a further planning permission was granted (07/00610/FUL) that provided for change of use of part of the caravan site to allow the siting of static caravans. That permission was granted subject to a condition that restricted occupation. That condition was varied by Scottish Ministers following an appeal. The condition as varied by Scottish Ministers states: -

'The pitches hereby approved (15C1 – 15C4 and S17 – S27) shall not be occupied by any individual whatsoever for a period of 8 weeks from 1 January in any year, or for any alternative continuous 8 week period as may be first approved in writing by the planning authority'.

In these circumstances I am not in a position to confirm that the site benefits from a valid planning permission that provides for residential use. The areas covered by the 2005 and 2007 planning permissions are both subject of conditions that limit the period during which caravans can be stationed on the land for the purposes of human habitation. The area covered by the 1959 planning permission is undefined and I am not in a position to confirm its extent.

It appears from review of the caravan site license history that those areas of the site that are not subject of the 2005 and 2007 permissions may have been used as a residential caravan site for a period in excess of 10 years. If that can be demonstrated that, in the balance of probability, those areas have been used for that purpose for a continuous area in excess of 10 years then a certificate of lawfulness of existing use would be granted. The onus of proof rests on the applicant but I would anticipate that evidence from the site licenses, rental agreements and affidavits from those resident on the site would provide a reasonably strong case.

I am conscious of the timescales associated with the license application process and we would endeavour to deal with any application for a certificate as quickly as possible.

- 2.7 Having regard to 2.6 above, and at the time of writing of this report, it would appear that the applicant is not entitled to the benefit of planning permission for the use of the land as a relevant permanent site. Discussions are ongoing between the applicant and officers regarding this particular issue.

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 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).

3.3 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.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising from this report.

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