

TO CONSIDER ALTERING STANDARD CONDITIONS FOR FAYRE OAKS CARAVAN PARK IN RELATION TO SEPARATION DISTANCES AND THE POLICY DECISION ON CARAVAN SITE LICENCE CONDITIONS ENFORCEMENT

Report By: Head Of Environmental Health And Trading Standards

1. **Wards Affected:**

Three Elms

2. **Purpose**

To consider altering the Standard conditions for Fayre Oaks Caravan Park in accordance with S.8 of the Caravan Sites and Control of Development Act 1960 in relation to separation distances and the Council's policy for enforcing the non-compliance of the standard licence conditions for Residential Caravan Sites

3. **Legislation**

Caravan Sites and Control of Development Act 1960 provides the Local Authority with powers attach conditions to site licenses.

4. **Powers of the Local authority to attach conditions:** s. 5(1) 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, therefore in caravans, or of any other class of persons, or of the public at large, and in particular, but without prejudice to the generality of the foregoing a site licence may be issued subject to conditions:

- (a) For restricting the occasions on which caravans are stationed on the land for the purposes of human habitation, or the total number of caravans which are so stationed at anyone time;
- (b) For controlling (whether by reference to their size, the state of their repair or subject to the provisions of subsection (2) of this section, any other feature) the types of caravans which are stationed on the land;
- (c) For regulating the positions in which caravans are stationed on the land for the purposes of human habitation and for prohibiting, restricting, or otherwise regulating, the placing or erection on the land, at any time when caravans are so stationed, or structures and vehicles of any description whatsoever and of tents;
- (d) For securing the taking of any steps for preserving or enhancing the amenity of the land, including the planting and replanting thereof with trees and bushes;

- (e) For securing that, at all times when caravans are stationed on the land, proper measures are taken for preventing and detecting the outbreak of fire and adequate means of fighting fire are provided and maintained;
 - (f) For securing that adequate sanitary facilities, such as other facilities, services or equipment as may be specified, are provided for the use of persons dwelling on the land in caravans and that, at all times when caravans are stationed thereon for the purposes of human habitation, any facilities and equipment so provided are properly maintained.
- (2) No condition shall be attached to a site licence controlling the types of caravans which are stationed on the land by reference to the materials used in their construction.
- (3) A site licence issued in respect of any land shall, unless it is issued subject to a condition restricting to three or less the total number of caravans which may be stationed on the land at anyone time, contain an express condition that, at all times when caravans are stationed on the land for the purposes of human habitation, a copy of the licence as for the time being in force shall be displayed on the land in some conspicuous place.
- (3A) The Local Authority shall consult the fire authority as to the extent to which any model standards relating to fire precautions which have been specified under subsection (6) of this section are appropriate to the land.
- (3B) If
- (a) no such standards have been specified; or
 - (b) any standard that has been specified appears to the fire authority to be inappropriate to the land.

The local authority shall consult the fire authority as to what conditions relating to fire precautions ought to be attached to the site licence instead.

- (4) The minister 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 standard so specified.
- (5) In this section 'fire precautions' means precautions to be taken for any of the purposes specified in paragraph (e) of subsection (1) of this section for which conditions may be imposed by virtue of that subsection.
5. **Powers of the Local authority to alter conditions:** s.8 the conditions attached to a site licence may be altered at any time (whether by Variation or cancellation of existing conditions, or by the addition of any condition, or combination of any such Method) by the local authority, but before exercising their powers the local authority shall afford the holder of the licence an opportunity of making representations.
6. The licence holder may appeal the decision to the magistrates court within 28 days of receiving the written notification of the decision.

7. Background

On Tuesday 18th February 2003 the Council Regulatory Committee approved new Caravan site Standard Licence Conditions for the County that replaced the outgoing Borough Council licence conditions.

8. On Thursday 17th July 2003 the Council Regulatory Committee approved that: -
- (a) the licensees of caravan sites be advised that they have 3 years to comply with the Council's licensing conditions in relation to;
 - mobile homes impinging into the 6 metre space,
 - combustible sheds,
 - enclosed porches.
 - (b) any new/replacement caravans/sheds contravening the licence conditions will be investigated and that if the present non conformances are not rectified the licensee leaves the business at risk to any claims from persons who sustain damaged or a loss if the site has a fire outbreak as a consequence of the non conformances to the standard conditions.
9. Since then the Environmental Health and Trading Standards Licensing Unit have carried out routine visits to all residential sites within Herefordshire to determine the compliance of the new Standard Conditions.
10. In respect of Fayre Oaks Caravan Park, Kings Acre Road, Hereford whilst a vast majority of the units now comply, there are still a few where there remains breaches of the conditions. The main points of concern are: -
- a) The distances between the mobile homes were inside the 6 metres rule relating to conditions. 2.1 of the Permanent Residential Mobile Home Site Licence conditions. (Appendix 1)
 - b) Mobile homes had enclosed porches contrary to condition 2.2 of the Permanent Residential Mobile Home Site Licence conditions. (Appendix 1)
 - c) Sheds erected in close proximity to the mobile homes are not of a non-combustible construction contrary to 2.6 of the Permanent Residential Mobile Home Site Licence conditions. (Appendix 1)
11. A recent inspection of the site has been carried by the Licensing Unit and the Fire officer to identify all outstanding issues. The findings of this report are being prepared and will be available for the Committee Hearing.
12. The current matter was listed for hearing before the Regulatory Committee on 31st October and was deferred for further discussion with the Fire Authority, as it was unclear whether 'The Regulatory Reform (Fire Safety) Order 2005' applied to the site.
13. It has now been decided that it does not and therefore the site licence conditions will apply. The solicitor at the hearing will provide the reasoning leading to this decision.
14. **Issues**
- The conditions attached to any licence are the responsibility of the site licence holder to enforce. An occupier of any unit on that site commits no offence by failing to comply with the council conditions. In some cases residents are refusing to comply

with the conditions of the licence and this is resulting in the need for site owners either having to apply for a variation of the site licence conditions or to instigate civil proceedings against the unit owners.

15. Any other issues which have been identified in the most recent report.
16. To prevent the spread of fire the license conditions require:
 - A 6 metre distance rule (or 5 metres as in one of the old licence conditions) between the mobile homes,
 - To have non combustible sheds and
 - Open porches (prevent storage of flammable materials).
16. Mobile homes on the site are replaced from time to time when their state of repair has deteriorated to an extent that it is not economical to repair.
17. To require the licence holder to remove all the combustible sheds, extensions and porches would be upsetting to residents.

18. **Fire Authority Comments**

Fayre Oaks Caravan Site, Kings Acre, Hereford

165 Eastern Avenue – Any fire involving any part of this unit may quickly involve the whole unit including the extension. The presence of fire retardant insulation will have little impact on this. Given that the distance between this unit and next door is reduced to approximately 3 metres it is very likely that radiant heat from such a fire would spread to the unit next door. This risk could be reduced considerably by the replacement of the wooden fence separating the two properties with a solid wall built of fire-resisting materials to a minimum height of 2 metres. The provision of smoke alarms would give early warning and should be encouraged (or ideally be a condition of licence).

84 Western Avenue - Any fire involving any part of this unit may quickly involve the whole unit including the extension. Given that the distance between this unit and next door is reduced to approximately 4 metres it is possible that radiant heat from such a fire would spread to the unit next door. This risk could be reduced considerably by separating the two properties with a solid wall built of fire-resisting materials to a minimum height of 2 metres. (Appendix 2)

19. **Site owners Comments**

The site owner has made comments in respect of the application. In conclusion they request that the committee extend the exemption to the condition, for a further period of two years to allow them to resolve the issues.

20. **Options**

- (a) To advise the licensee that no enforcement action will be take on the present Non-compliances in relation to;
 - The mobile homes impinging into the 6 metre space,
 - The combustible sheds,
 - The enclosed porches.

and to allow a further period of time to allow the site owners to conform with the conditions

- (b) To refuse to extend the period thereby authorising authority officers to take action against the site licence holder.
- (c) To require the site owner to erect a Temporary fire wall in accordance with fire officer's recommendations. The wall to remain there until such time specified by the Committee when the standard conditions are required to be complied with (e.g. 2 years or the lifetime of the units).
- (d) To come to some other conclusions.