

## Housing, Regeneration and Planning

### **Licensing of Caravan Sites in Scotland An Analysis of Consultation Responses**

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These Research Findings set out the main issues to emerge from the analysis of responses to the Scottish Government's recent consultation on the Licensing of Caravan Sites in Scotland. The principal focus of the proposals is on strengthening the licensing regime to protect the welfare of permanent residents of park home sites.

### **Main Findings**

- Those respondents (including group and individual respondents) who approached the proposals from the 'residents' perspective' were generally in support of the suggested changes and often expressed clear support for an enhanced licensing and inspection regime.
- Respondents who approached the proposals from the 'industry perspective' disagreed with some of the suggested changes. These respondents often suggested that the proposed regime would impose additional administrative and financial burdens on reputable Site Owners, but would be unlikely to tackle the problems created by a small number of 'rogue' owners.
- Industry respondents (Industry Bodies, Site Owners and individuals who appeared to be Site Owners) often focused their comments on how the proposals would affect that part of the industry with which they were most closely connected – this applied particularly to respondents who were concerned about the regime being applied to holiday sites.
- Local Authority respondents appeared to be supportive of the need for change and of the requirement for an enhanced licensing regime. Local Authority respondents also tended to be in broad agreement with most or all of the proposals as put forward, although some did express reservations about certain aspects of the proposals as they currently stand and were generally looking for them to be strengthened.

# The Consultation Process

The consultation period ran from 21st May to 13th August 2012, with 129 responses received. Fifty three of these were submitted by groups or organisations and 76 by individual members of the public. Of the 76 responses submitted by individuals, 55 drew on one of three versions of a set of answers and were submitted by residents of two park homes. Of the 53 group responses received: 13 were submitted by Local Authorities; 6 responses by Resident Groups or Resident Action Groups; 3 by Resident Groups for a specific site and 3 from Resident Action Groups; 4 by bodies connected with or representing various aspects of the park home or holiday park industries; and 21 by owners and operators of park home and/or holiday sites.

## Statutory Minimum Application Criteria

This proposal suggested the introduction of Statutory Minimum Application Criteria. This would require information to be submitted to a Local Authority at the point of requesting a licence. Most respondents who made a comment identified positive benefits that could result from the introduction of the criteria, the principal benefit being that licensing authority would have accurate and up-to-date information to inform decisions.

A clear majority of respondents anticipated no difficulties would arise from the introduction of Statutory Minimum Application Criteria. Among the issues raised by respondents who felt there could be difficulties was the administrative burden that would be placed on both Local Authorities and Site Owners. Most of the respondents who disagreed with the minimum criteria as proposed felt additional criteria were required.

## Fit and Proper Person Test

Many respondents expressed their broad support for the introduction of the Fit and Proper Person Test. Those who went on to express reservations about the specific proposals sometimes noted that they supported the introduction of the Fit and Proper Person Test in principle.

The main issue that respondents expected a Fit and Proper Person Test to address was unsuitable people holding a licence, particularly people with relevant criminal convictions. However, a number of respondents also noted that the test will need to

be robustly applied to deter unsuitable people from remaining in or entering the sector.

Industry Body or Site Owner respondents often expressed fundamental concerns as to the feasibility of the proposals. Local Authority and Resident Group respondents tended to be looking for further clarification about how the test would work.

Most respondents agreed with the suggested criteria to be used when the Fit and Proper Person Test is applied. Further comments often focussed on the principles on which the criteria should be based – such as transparency and fairness.

There was a high level of consensus that a Local Authority should have the power to refuse a site licence if the Fit and Proper criteria are not met.

## Duration of a Site Licence

Requiring licence holders to renew their licence on a regular basis divided respondents. Many agreed with the proposal that a licence should have to be renewed every 3 years. These respondents often noted this change would bring caravan site licensing into line with many other licensing regimes.

However, a number of respondents expressed considerable concerns about any fixed period being applied to licences. Many of these respondents were Site Owners who expressed concerns that 'fixed period' licences could undermine the viability of park businesses.

## Issue of a Site Licence

Many of those who commented had concerns about the proposed changes to the time limits within which a Local Authority is required to issue a site licence. Some respondents suggested the current time limits should remain in place. Others were concerned that the current proposals lack clarity and detail. However, some respondents saw advantages, including ensuring that an applicant has a clear incentive to provide any information in a timely manner.

Some respondents stated that once the standard set of application criteria had been met and planning permission obtained, it should always be possible to issue a licence. Others suggested specific circumstances under which a licence could reasonably be refused – for example, if the applicant for the licence had not passed the Fit and Proper Person Test.

## **Enforcement of a Site Licence**

A number of respondents stressed that effective enforcement will be critical to the success of any new licensing regime. Some also suggested that the current enforcement framework – both in terms of its content and how it has applied – has allowed ‘rogue operators’ to remain largely unchallenged. There was a clear consensus that change is required.

Most respondents favoured Local Authorities having the power to revoke a site licence without application to the courts. Local Authorities and Resident Groups tended to favour this option, whilst Industry Bodies and Site Owners tended to favour application to a court being required. They often suggested that application to the court would help ensure that due process underpinned the licensing authorities’ use of its enforcement powers. However, respondents who supported Local Authorities being able to revoke a licence without application to the courts were often concerned that Site Owners might use the court process as a ‘delaying tactic’.

There was strong support for the proposal to increase fines for non-compliance with licence conditions up to a maximum of £50,000. Most respondents who commented also supported the introduction of Statutory Improvement Notices and giving Local Authorities powers to make an application to the court for a Management Order. There was also support for giving Local Authorities the powers to revoke a Site Licence, although many respondents stressed that this must only be as a last resort.

Most respondents who commented on Penalty Notices offered support for the basic principle, sometimes commenting that it would be a useful addition to the enforcement tools available to Local Authorities. However, some respondents did have reservations and were keen to have further information as to how a penalty notice system would work in practice.

Most respondents agreed that there should be a minimum inspection interval. Those who disagreed often suggested that inspections should be carried out as required or at intervals based on an assessment of risk.

## **Ability of the Licensing Authority to Charge a Fee**

A clear majority of respondents who answered this question were in agreement with allowing Local Authorities to charge on application for a licence and at the renewal stage. Those that supported the principle of charging tended to focus on bringing caravan licensing into line with other licensing regimes. Those that disagreed generally focused on additional costs being imposed on reputable businesses for what was seen as an unnecessary change.

The majority of respondents thought Site Owners should not be able to recover these costs through pitch fees, although a clear majority of group respondents thought they should. Differences of opinion on this issue appeared to stem from how respondents viewed the relationship between running costs and pitch fees. Respondents who suggested that licensing costs should be recoverable often noted that licensing costs would form part of any park’s legitimate running costs and hence would be eligible for consideration in the pitch fee review process. Those who suggested that licensing costs should not be recoverable reasoned that licensing costs would form part of any park’s legitimate running costs.

Most respondents disagreed that Local Authorities should have the power to exempt certain sites from licensing fees, although a majority of group respondents thought they should have these powers.

## **Additional Considerations**

The majority of respondents who commented considered that all types of sites should be covered under the new licensing regime. However, a number of respondents – including Site Owners and Industry Bodies made comments which clearly stated that holiday parks should be excluded.

Respondents who wished to see holiday sites excluded often suggested that the proposals are aimed at improving standards for permanent residents of caravan sites and that no evidence has been presented to suggest that the welfare of occupants of holiday sites is at risk under the current system of licensing. The financial consequences of the proposed changes for holiday and touring park businesses, and by extension Scottish tourism more widely, were also raised.

This document, along with full research report of the project, and further information about social and policy research commissioned and published on behalf of the Scottish Government, can be viewed on the internet at: <http://www.scotland.gov.uk/socialresearch>. If you have any further queries about social research, please contact us at [socialresearch@scotland.gsi.gov.uk](mailto:socialresearch@scotland.gsi.gov.uk) or on 0131 244 7560.

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