

LICENSING REGULATORY COMMITTEE

Broadfields Park Caravan Site Licence Review 2 June 2016

Report of Chief Officer (Health & Housing)

PURPOSE OF REPORT

To seek decisions about varying the licence conditions on the caravan site licence for Broadfields Park.

This report is public.

RECOMMENDATIONS

- (1) **That Members approve the variation of licence conditions on the Broadfields Park caravan site licence to improve standards relating to drainage and sanitation.**

1.0 Introduction

1.1 Broadfields Park, Oxcliffe Road, Heaton with Oxcliffe, Morecambe LA3 3EH is a 'relevant protected site' as defined in the Mobile Homes Act 2013, operated by Britaniacrest Ltd. Relevant protected sites were formerly called permanent residential caravan sites. All caravan sites must be licensed by the local authority under the Caravan Sites and Control of Development Act 1960. The Council has adopted the Model Standards for Caravan Sites in England 2008 which require a good standard of services, facilities, and amenities provision, for example in relation to spacing, lighting, electrical installations and drainage & sanitation. It is a condition on all site licences that sites must comply fully with the standards and the Council can take formal action for breaches of licence conditions. Where appropriate, additional non-standard conditions specific to a site may also be placed on a licence.

1.2 Commonly, residents on relevant protected sites in the Lancaster district enjoy legally compliant standards as witnessed during Environmental Health inspections and by the very low number of complaints received.

1.3 The Council has, however, received numerous complaints from residents of one particular site, Broadfields Park, relating to their toilets and showers backing up after periods of intense or sustained rainfall. Reports have also been received of residents having to wade through ponded surface water. Although Britaniacrest Ltd has taken some action to resolve the issues on each of these occasions, this has not always been speedy or had a lasting effect, and a longer-term and more proactive solution is needed.

1.4 During 2015 Environmental Health Services identified the need for Broadfields Park's site operators to survey, review, and where necessary alter and improve the surface and foul water drainage system due to serious and

persistent failures of capacity and technical issues.

- 1.5 Members are advised for information that a number of residents of the site are dissatisfied with progress made to date on resolving the drainage problems and there is a current Ombudsman complaint against the Council under investigation.

2.0 Proposal Details

- 2.1 In 2015 the Council held discussions with Britaniacrest Ltd, being the operator and licensee at Broadfields Park. The Council advised that in its view the drainage system was unsuitable, insufficient and/or defective, warranting full investigation and permanent resolution. This raised the question whether specific licence conditions needed to be added to the Broadfields Park caravan site licence, as it was felt that the wording of the existing licence conditions about drainage were capable of improvement.
- 2.2 Britaniacrest Ltd, however, gave firm assurances that they were prepared to carry out all necessary works without the need for them to be added to the licence conditions. They expressed in strong terms their wish to do the works voluntarily rather than under imposed conditions. The Department for Communities and Local Government, in 'Mobile Homes Act 1913 – A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing regime', states that 'Where possible, an informal approach to enforcement should be taken in the first instance.' An informal approach to regulation is also advocated by the Enforcement Concordat and the Regulator's Code, both of which local authorities must have regard to when pursuing enforcement.
- 2.3 The Council therefore agreed in writing a number of actions and associated deadlines, to be fully completed by 28 February 2016 (see full copy forming Appendix 1). These actions included carrying out a detailed survey of the site's drainage system to assess its adequacy, suitability, effectiveness and weaknesses, and to make recommendations for permanent resolution of the problems. Secondly, a scheme should be implemented for the improvement of on-site drainage, to eliminate or minimise the risks of future blockage and flooding. Thirdly, a programme should be adopted for regular inspection, servicing and maintenance of the drainage system, and records kept of all such activities. Finally, arrangements should be made to secure urgent remedial action promptly in the event of further drainage backing up, for example, removal of effluent by tanker. Documented records of remedial action should be kept.
- 2.4 In response to these agreed actions, Britaniacrest Ltd carried out a drain survey of a small section of the on-site sewerage network. There is still uncertainty however regarding where the site sewerage drains to and the Council are working with United Utilities on this issue. Britaniacrest Ltd also carried out partial improvement works to the surface water drainage in one part of Broadfields Park, being the worst impacted location, but they did not complete all the actions. This failed to resolve adequately the problems complained of by site residents.
- 2.5 On 14 April 2016 the Council wrote to Britaniacrest Ltd informing them of intentions to request a Formal Licence Review and alter site conditions, and

gave Britaniacrest twenty-eight days to make any representations. Representations by the site operator were received on 16 May 2016 (dated 11 May 2016), see full copy forming Appendix 2. Officers reject the representations made by Britaniacrest Ltd as factually incorrect in suggesting that the problems have been resolved.

- 2.6 Under the Caravan Sites and Control of Development Act 1960 a local authority may vary conditions in a site licence at any time. It does not require the site owner's agreement to vary the site licence, although consultation is required and the owner has a right of appeal should new conditions be imposed. Government advice is that any alterations need to be justified, relevant to the particular circumstances of the site and proportionate. The Council is satisfied that its proposals meet these requirements.
- 2.7 Site owners have a right of appeal to a First Tier Tribunal against decisions to vary licences. When determining an appeal against a condition the tribunal may, if it finds the condition is unduly burdensome, cancel or vary it. Otherwise the tribunal must confirm the condition. In the eventuality of an appeal being upheld by a tribunal, if the council were judged to have acted reasonably then it is unlikely that costs would be awarded.
- 2.8 Should Britaniacrest Ltd breach any licence conditions after variation, the local authority can serve a compliance notice, which sets out the steps required in order for the breach to be remedied. In the case of an emergency the authority has powers to enter the site and do the works. Failure to take the action required under a compliance notice within the timescale required is a criminal offence and the local authority can prosecute for non-compliance. Site owners have a right of appeal to a First Tier Tribunal against a compliance notice.

3.0 Details of Consultation

- 3.1 There is a duty to consult a site owner and permit representations to be made if the local authority intends to alter conditions in an existing licence. There is no statutory consultation time frame, however the Government recommends that site owners are given a minimum period of 28 days. In this case the 28 day consultation period ended on 13 May 2016 and representations dated 11 May 2016 were received from Britaniacrest Ltd on 16 May 2016 (see Appendix 2).

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Vary the site licence conditions to enable enforcement action to be taken as appropriate	Option 2: Leave the site licence conditions as existing and continue relying on the co-operation of the site operator
Advantages	<ul style="list-style-type: none"> • Ultimately provides a long-term proactive solution to the site drainage problems, benefitting residents • Costs of improvements 	<ul style="list-style-type: none"> • No advantages have been identified

	<p>cannot be passed on to residents when carried out as a result of formal action</p> <ul style="list-style-type: none"> Once the long-term solution is in place, reduced workload implications to the Council. 	
Disadvantages	<ul style="list-style-type: none"> Initial increased workload implications would be met as a matter of course within Environmental health. 	<ul style="list-style-type: none"> Residents continue to experience drainage & sanitation problems on regular basis, with only short-term resolution on each occasion Costs of improvements can be passed on to residents when works carried out not as result of formal action Ongoing workload implications to the Council, particularly in responding to potential ward councillor, MP and Ombudsman complaints, as well as officer time in dealing with complaints.
Risks	<ul style="list-style-type: none"> May result in further difficulty in the working relationship between site operator and the Council, however the site operator has offered very limited and slow co-operation with the council's requirements subject to this report.. In the event of appeal, a tribunal may cancel or vary the proposals. 	<ul style="list-style-type: none"> If site operator fails to rectify problems informally, formal process would need starting afresh, leading to delays

4.1 Officers have provided the suggested wordings in Appendix 3 for proposed additional licence conditions and identified two options – either to vary the licence as recommended or not to do so. It should be noted that the Committee is free to determine a different form of words however this would involve technical and legal considerations.

4.2 Option1 would secure a licensing resolution to the current site drainage and associated problems addressed in this report. This is the officer preferred option.

5.0 Conclusion

- 5.1 Caravan site licence conditions serve an important beneficial purpose to protect site residents from poor standards. In the case of Broadfields Park, residents have experienced problems relating to their toilets and showers backing up, and flooding on site, but the ambiguous wording of the licence conditions has left the Council unable to take formal action to permanently rectify the unusual situation of rainwater overwhelming the foul drainage system, which to officers' knowledge affects no other relevant protected site. The proposed conditions detailed at Appendix 3 are justified, relevant and proportionate to securing suitable standards for affected residents of Broadfields Park. Appropriately varying the licence conditions would enable the Council to use compliance notices if necessary to address any breaches of conditions, and to prosecute for any breach of a compliance notice. In the view of licensing officers it is necessary and proportionate to impose the conditions as recommended.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

This is a regulatory matter and no significant impact assessment implications have been identified.

LEGAL IMPLICATIONS

As set out in the report, the licence holder has a right of appeal to the First Tier Tribunal against the imposition of any conditions.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report and any officer time and any expenses relating to varying the licence will be contained within existing budgets.

BACKGROUND PAPERS

Broadfields Park correspondence
Mobile Homes Act 2013
Caravan Sites and Control of Development Act 1960
Model Standards for caravan Sites in England 2008
DCLG Mobile Homes 2013 – A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime
DCLG Mobile Homes Act 2013 – Advice to local authorities on the new regime for applications for the grant or transfer of a site licence

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