

This report will be made public on 19 May 2014.

Folkestone

Hythe & Romney Marsh
Shepway District Council



Report Number **C/14/02**

To: Cabinet
Date: 28 May 2014
Status: Non-Key Decision
Chief Executive: Alistair Stewart
Portfolio Holder: Councillor David Monk, Leader of the Council

SUBJECT: Permanent Occupation of Non Residential Caravans

SUMMARY: This report identifies the issues relating to the permanent occupation of non-residential caravans. It considers the current planning and licensing restrictions relating to non-residential caravans and the Council Tax and New Homes Bonus implications where residents use caravans as their main or only home.

The report identifies a range of possible options available to the Council in response to these issues.

REASONS FOR RECOMMENDATIONS:

Cabinet is asked to agree the recommendations set out below because:

- a) The report identifies potential areas of policy conflict for the Council.
- b) There are significant financial, reputational and planning risks associated with both the occupation of non-residential caravans as main or sole homes and from any enforcement action taken by the Council.
- c) There is a potential short-term financial benefit from including non-residential caravans that are occupied as a main or sole residence on the Council Tax list, in the form of additional New Homes Bonus payments.
- d) There are resource implications arising from the issues raised within this report.

RECOMMENDATIONS:

Cabinet are asked to:

1. Note the contents of report C/14/02.
2. Consider the potential options set out in section 6 of this report.
3. Agree a preferred option and recommend any associated budget to full Council.

1.0 Background

- 1.1 The Shepway District has an estimated 2,100 static caravans that are licensed for holiday use only, located on 21 sites. The Caravan Sites and

Control of Development Act 1960 requires that sites are licensed with the local authority. The legislation automatically confirmed the status of any sites that predated its introduction.

- 1.2 Caravan sites are also required to have planning consent issued by the local authority. Local authorities can impose specific restrictions on the operation of sites, for example conditions that restrict occupation to genuine holiday makers, or require the site to close for a set period each year.
- 1.3 Early investigations of the licensing and planning conditions for the 21 licensed sites in the district show that in general sites are restricted to bona fide holiday makers and do have a closed season of between 4 and 8 weeks in the winter. Conditions are site specific with local variations, for example one site is open all year round but is still restricted to bona fide holiday makers. Restrictions are not specified for some sites that predate the Caravan Sites and Control of Development Act 1960. These early investigations have also identified 4 sites that are currently unlicensed.
- 1.4 In addition to licensed holiday caravans there are 115 static caravans that are licensed for permanent occupation in the district. Residential caravans have more restrictive licensing conditions, for example in relation to the distance between sited caravans. Residential caravans will also be commonly designed and built to a higher standard, particularly in relation to thermal insulation.
- 1.5 Despite these factors there is emerging evidence from around the district that some residents are occupying holiday let caravans as their main or sole home. Where sites have a short closed season in the winter these residents are understood to make alternative arrangements for the period, such as staying with family or friends, booking holidays elsewhere or using local hotels. The evidence to support this is currently inconclusive but does include the following sources:
 - 3 sites have permanent residents paying council tax
 - 184 dwellings were in receipt of the previous 50% council tax discount scheme for holiday accommodation (now withdrawn) of which some, but not all were thought to be caravans.
 - 45 occupants in receipt of housing benefit from holiday let caravans
 - 25 applicants registered on the housing list from holiday let caravans
- 1.6 These sources of evidence are insufficient to accurately predict the level of permanent occupation of non-residential caravans in the district, but do give an indication of a wider issue. Experiences from elsewhere in the country suggest that as many as 10%-15% of caravans could be used as the occupants main or sole home, even if they do have to make alternative arrangements during the closed season. Based upon these factors it is estimated that between 100 and 250 holiday let caravans could be occupied in this way; however significant further work would be required to generate a more accurate assessment.
- 1.7 This report considers the implications of these issues from a number of perspectives and sets out a range of options for the future.

2. Planning

- 2.1 Use of land for residential purposes and use of land for holiday or recreational purposes are distinct from each other in planning law. Planning permission is required for change of use of land from one to the other. Therefore a static caravan or chalet that is used for holiday or recreational purposes can't be used for residential purposes without securing planning permission for change of use.
- 2.2 However if a static caravan is occupied for 4 years continuously, an application can be made for a certificate of existing lawful use for residential purposes. Provided the applicant can show that the caravan or chalet has been continuously used for 4 years the Council would have to grant a lawful use certificate.
- 2.3 Many static caravans and chalets are on large holiday parks and traditionally have been subject to planning conditions restricting all year round use. A typical condition would require the static caravans or chalets not to be used between say 3rd January and 1st March and would therefore prevent residential use.
- 2.4 Static caravans are the most vulnerable forms of accommodation in storm and flood conditions. On many sites, particularly those close to the coast, there are genuine reasons not to allow occupation during the periods of greatest flood risk in the winter months. Of the 21 licensed sites in Shepway all but 3 are in areas of high flood risk.
- 2.5 If planning permission is granted for residential use or if a residential use becomes lawful due to the 4 year rule, it becomes much more difficult to prevent more substantial residential style buildings replacing existing static caravans over time. In some open areas this might create a visual issue.
- 2.6 There are also planning issues relating to loss of a tourism and impact of this on the local economy. The spending patterns of genuine holiday makers are likely to be different to permanent residents and any significant changes in use would impact on local business and employment. The Economic Impact of the Kent Visitor Economy (Shepway District) Report, as published in March 2014, indicated that static vans/holiday centres in Shepway generated 62,000 trips (215,000 nights) resulting in a spend of £7,650,000.
- 2.7 Monitoring and enforcement of the occupation of static caravan use is highly intensive in terms of resources. The Council currently has only one Planning Enforcement Officer who is unable to dedicate any meaningful time to this issue. Despite this, the Council has previously enforced against unauthorised residential caravan use (most notably approximately 25 caravans in a field at Ivychurch) and in those circumstances have worked with Housing to support the caravan owners in finding new homes.
- 2.8 In addition the Council has worked with other holiday park owners to find and agree a managed solution with the site owner taking a lead on

enforcement. It is the site owner that holds the site license, which can be revoked if breached.

- 2.9 Encouraging applications from holiday park operators or individual caravan and chalet owners to apply for planning permission for change of use might increase the New Homes Bonus but would in many circumstances bring the Council into direct conflict with the Environment Agency and reduce holiday accommodation in the district.

3. Licensing

- 3.1 The Caravan Sites and Control of Development Act 1960 requires that sites are licensed with the local authority. Once a site has planning consent or a certificate of lawful use issued by planning, the Council cannot refuse to issue a license but can impose conditions relating to the use of the site. Sites that predated the legislation were required to be automatically licensed.
- 3.2 In general license conditions reflect any conditions attached to the planning consent and restrict occupation to genuine holiday makers.
- 3.3 The Council currently has a Licensing Manager, with responsibility for issuing and reviewing licenses. Any site owner that permitted permanent residence in a non-residential caravan would be in breach of their license conditions. The Council has undertaken targeted enforcement in the past but struggled to find any clear evidence of permanent residence. Any meaningful enforcement activity would require some additional dedicated staff resources.

4. Council Tax and New Homes Bonus

- 4.1 The legislation relevant to Council Tax is set out in the Local Government Finance Act 1992 and allows for Council Tax to be charged for caravans that are dwellings used as a main or sole residence.
- 4.2 There are 3 broad sets of circumstances for caravan use that impact on whether they are chargeable for Council Tax purposes. These circumstances are:
- a) A caravan that is used as a sole or main residence. This type of caravan is banded for Council Tax.
 - b) A caravan that is a second home or holiday home. It can be used by friends and family of the owner but is not let out commercially. This type of caravan is banded for Council Tax and up until April this year attracted a discount of 10% as a second home.
 - c) A caravan which is commercially available for 140 days or more per year. This is business rated and included in any mass assessment for the park.

In the event that a caravan in group c) above becomes occupied as a sole or main residence it should no longer liable for a business rating assessment and should instead be added to the Valuation List for Council

Tax. In these circumstances the person that was previously liable for the payment of Business Rates can apply for a revaluation of their liability.

- 4.3 Where evidence has been available to demonstrate the use of a caravan as a main or sole home the Council has requested the Valuation Office to add them to the Council Tax list, for example when the occupants have approached the Council to apply for Housing Benefit. However the Council Tax data base does not specifically identify caravans and therefore the number of current cases is not known.
- 4.4 Once the Valuation Officer has added a property or caravan to the valuation list, the occupant will then become liable for the payment of Council Tax. In addition, any net increase in the number of properties registered on the valuation list will attract the payment of new homes bonus for the Council. This is irrespective of the planning and licensing position for any specific site.
- 4.5 If the number of caravans on any site that move onto the Council Tax list as described in 4.4 above is relatively small, it is unlikely that this would have any impact on the valuation in respect of Business Rates. However, any significant movement on any one site would be likely to attract a revaluation. There is therefore a potential cost to the Council's on-going revenue if there were any number of Business Rate revaluations.
- 4.6 When a caravan that is chargeable for Council Tax is located on a site that is closed for part of the year, due to a planning restriction, a Class G planning exemption will apply so that Council Tax is not chargeable for the closed season. The cost of the reduced Council Tax liability as a result of a class G exemption would be spread across all of the Council Tax preceptors. However, some sites may have planning and licensing restrictions on residential use, but not have a planning requirement for a closed season. In these circumstances a class G exemption would not apply even if the site owner chose to close the site for a period in the winter. There is at least one example of this in the Shepway district. In these circumstances the Council could agree a local discretionary discount scheme for the closed season but would have to cover the full cost locally. A local discretionary discount scheme of this type has recently been removed by the Council and there have been a number of complaints received from owners of caravans and chalets about the increased Council Tax Liability.
- 4.7 The emerging evidence set out in paragraph 1.5 above suggests that there is likely to be between 100 and 250 holiday caravans occupied as a main home that could be considered by the Valuation Officer for inclusion on the Council Tax list. Clearly if any significant number of these properties were added to the list, there would be a financial windfall to the authority in the form of New Homes Bonus and an on-going impact in the income generated from Council Tax. However, the overall financial impact for the Council of the additional Council Tax and new Homes Bonus is difficult to accurately predict as there is no reliable data on the numbers of holiday caravans permanently occupied.

4.8 Therefore a number of potential scenarios have been developed which show the variations in financial impact, depending upon the number of caravans affected. The upfront cost of identifying caravans used as the occupants' main or sole residence has also been estimated. The impacts and estimated costs are shown in the table below.

Number of new registrations	Annual CTax to SDC (£000s)	NHB to SDC (over 6 years) (£000s)	Upfront Cost/fee (£000s)
100	15	470	34
150	23	700	51
200	31	940	68
250	38	1,165	85

The figures set out in the table are based upon a number of assumptions as follows:

- Caravans identified as occupied as a main or sole residence are added to the Council Tax list as band A properties, generating an income to the Council of £152.70 per property per year.
- Income related to other Council Tax preceptors are not shown in the table.
- No allowances have been made for bad debts.
- The Council's element of new homes bonus is £4,565 per property over 6 years.
- No allowances have been made for any class G exemptions or local discretionary discount schemes that might be approved, such as local discounts for periods when caravan sites may be closed for the winter.
- No allowances have been for any Council Tax reduction schemes such as for single occupancy.
- No allowance has been made for any loss of income related to any future Business Rate revaluations.
- Upfront costs include the costs of identifying caravans used for main or sole occupation and applying to the valuation officer for their inclusion on the Council Tax list, but do not include any costs associated with on-going review.

4.9 Despite these conflicts, there is potential for a one off financial benefit to the Council in the form of New Homes Bonus. However any additional on-going revenue from Council Tax is likely to be balanced or exceeded by the costs of on-going monitoring of caravan occupation, bad debts, discretionary discount or exemption schemes, reductions schemes and any revaluations of Business Rates.

4.10 Although it is clear that adding caravans used as a main or sole residence to the Council Tax list can be appropriate in some circumstances, it would,

on many of the sites in the district be in direct conflict with existing planning and licensing conditions.

5. Housing and Homelessness

- 5.1 The Council works with anyone living in a caravan who asks for assistance with a housing problem. This includes anyone who is facing homelessness, for example as a result of seasonal restrictions on occupancy at the site, and anyone applying to the housing list for accommodation.
- 5.2 During 2013 the council co-ordinated work across housing, planning and council tax together with the Shepway Citizens Advice Bureau to advise residents on a specific site following changes to the restrictions imposed by the site owner. The site owner had written to residents asking for evidence that they had permanent addresses elsewhere, mostly in the form of council tax being paid elsewhere. Between 10 and 12 residents approached the Council for advice. Any increase in enforcement activity on the district's caravan sites would increase the demand for the Council's housing services, which are already working at capacity.
- 5.3 There is emerging evidence of residents who need assistance with their housing problems and are living permanently in holiday caravans. This includes the 25 cases currently registered on the Council's Housing List. It also includes a small number of households seeking advice from the Council when they were required to leave their site during the closed period or had been wrongly advised by the site owner about being able to live in their caravan. During the closed season in early 2014, 1 household was provided with temporary accommodation by the Council following a statutory homeless application.
- 5.4 Any permanent resident is able to ask the council for assistance in resolving a disrepair issue with their landlord, and the council would have a duty to investigate this. This includes anyone living permanently in a caravan, where the caravan cannot be moved, for example if it is connected to mains services. If the investigation identified any serious hazards, such as the lack of appropriate heating or insulation, then the council would have a duty to take action to resolve the situation. The exact response to this would depend upon the individual details of the ownership, lease or tenancy of the caravan. In many cases residents own or lease caravans and rent the plot on which it stands, although detailed agreements vary between sites. Currently the council receives only a handful of complaints from residents of caravans about condition each year. However any significant shift from holiday lets to permanent homes could see this increase.
- 5.5 The overall impact of any change in status from holiday lets to permanent homes is also difficult to assess. For example it could lead to a significant shift in the profile and demographic of residents of these sites, with implications for housing, health, social care and education that would need to be carefully monitored.

6. Options and Implications

6.1 To enable a broad consideration of the relevant issues and to assist in the preparation of this report, officers have formed a cross service working group. This group has included representation from the following areas of the Council's services:

- Council Tax
- Benefits
- Housing Options
- Private Sector Housing
- Planning
- Licensing
- Environmental Health

6.2 This work has identified four broad options for addressing the issues that are set out in this report. These are:

1. Do nothing:

Continuing with the current planning, licensing and Council Tax arrangements is clearly an option, and would have no significant impact on the Council's financial position. The emerging evidence however suggests that there are both inequities and inconsistencies with the current approach, for example only those cases where permanent residence has been established are added to the Council Tax list, but there will be other cases where permanent residence has not been identified.

In addition the Council currently has insufficient resources to properly monitor, review and enforce the current planning and licensing position.

Identified cases of permanent residence are already added to the Council Tax list, and some New Homes Bonus payments have been generated as a result.

2. Enforce current restrictions in all cases:

This approach would be consistent with the current planning and licensing position, and would protect both flood risk areas and the local supply of holiday accommodation. It would however require additional resources if the Council were to be effective in its enforcement activity. For the purposes of this report it is suggested that this approach would require at least a full time officer dedicated to this activity, at a cost of £36,400 per year. An appropriate budget would be required.

The site specific restrictions, in particular for those sites that predate the legislation would make effective enforcement in some circumstances difficult or impossible. Where enforcement was necessary the Council would need to offer advice and/or support to

any displaced residents, adding work to already busy services and creating a significant reputational risk.

This approach would not generate any windfall income for the authority in the form of New Homes Bonus.

3. Actively monitor residency and add all permanent residents to CTax register:

The upfront costs and potential financial benefits of this approach are set out in the table in paragraph 4.8 above. It is estimated that this could generate a significant income for the Council in the form of New Homes Bonus. However, the long term impact on revenue income would be at best neutral, but could potential generate long term net costs. The upfront costs would need a specific approved new budget estimated at between £34,000 and £85,000. Further budgets to continually review and monitor caravan occupancy would also be required, and are estimated at £36,400 per year from 2015/16 onwards.

This approach would avoid any of the difficult enforcement related issues, particularly those related to the displacement of any permanent residents. However it would conflict with the current planning and licensing position and not adequately protect flood risk areas and the availability of holiday accommodation into the future.

4. Individual site by site review:

This approach could include some or all of the following:

- § Action to enforce or license unlicensed sites, including any without planning consent.
- § Review planning and licensing conditions on an individual site by site basis
- § The identification and monitoring of permanent occupation with either enforcement action to resolve or action to regularise the position, depending on the individual site.
- § The addition of specific permanently occupied caravans to the Council Tax list, where these are agreed or tolerated.
- § The introduction of pro-rata discounts based on closed seasons, where class G exemptions do not apply.

This approach would however require additional resources if the Council were to be effective in developing these activities. For the purposes of this report it is suggested that this approach would require at least a full time dedicated officer, at a cost of £36,400 per year. An appropriate budget would be required.

A key advantage of this approach would be the development of a long-term sustainable service to support site owners and residents and to review and enforce the Council's policy position and requirements. Although any tolerated permanent occupancy of

holiday caravans would still conflict with the planning and licensing position.

The initial complexity of the work set out in this option would make any short term benefit from additional New Homes Bonus payments unlikely.

6.3 Whichever option is supported, either in full or part, careful consideration will need to be given to the need to effectively communicate the Council's position with owners and occupants of caravans and holiday park owners. Each of the options would therefore also need to be accompanied by an effective communications plan.

6.4 Cabinet are asked to consider the options and implications set out in this report.

7. Risk Management Issues

7.1 Perceived risks as follows:

Perceived risk	Seriousness	Likelihood	Preventative action
Additional financial costs to the Council	Medium	High	Options 2, 3 and 4 all have associated costs set out in this report. Although costs in option 3 are offset by the estimated income from New Homes Bonus in the short to medium term. Developing an agreed approach will enable an appropriate budget to be established to effectively manage these costs.
Future land use risks, if for example Certificates of Lawful Use have to be issued when permanent occupation is tolerated contrary to planning and licensing conditions	High	High	The effective long term management and control of holiday caravans in the district will help to ensure that these risks are properly managed and that future land use is consistent with planning policy.

Reputational risks	High	Medium	Managing potential reputational risks will require: Publication of clear advice and information for site owners and residents. Appropriate support and advice for displaced households following any enforcement action. A clear position that reduces the potential policy conflicts for the Council.
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8.0 LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

8.1 Legal Officer's Comments (EC)

The legal implications are set out in the body of the report.

8.2 Finance Officer's Comments (GW)

The Finance team has been involved with the preparation of the financial illustrations and costings set out in the report. Additional council tax income shown in section 4.8 makes no allowance for the impact of any discounts, such as CTRS, and non collection. It is based on the Shepway element only, excluding the special expense. As far as New Homes Bonus is concerned, the current scheme is anticipated to be reviewed by the new Government Administration in 2015. Any NHB for 2015/16 financial year however will be based on the measure of the council's increase in tax base as at October 2014. The illustrations assume that any determined NHB will be honoured for the next 6 years.

8.3 Diversities and Equalities Implications (BP)

The work completed so far has identified that residents who have submitted applications for Housing Benefit have been a source of evidence of permanent residence. This suggests that people in receipt of benefit maybe disproportionately represented in those caravans that have so far been added to the Council Tax list. In addition there is potentially a disproportionate impact on older residents of caravans from any decisions or change of approach agreed by the Council. As a consequence any future changes of any policy positions will need to be accompanied by a completed Equalities Impact Assessment.

9.0 CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Bob Porter (Housing Services Manager)

Telephone: 01303 853732

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Jason Couch (Head of Customer Contact)

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The following background documents have been relied upon in the preparation of this report:

None.

Appendices:

None.