

MOBILE HOME RESIDENTS FORUM

Monday 28 January 2013

Present:

Councillor Heather Morris (Chair)
Councillors Bull, D J Henson and Leadbetter

Also Present:

Environmental Health Manager, Licensing Solicitor and Assistant Member Services Officer

Also Present:

Val Ewings	- Exonia Park
Jan Grundy	- Exonia Park
Colin Hughes	- Exonia Park
Mr P North	- Newport Park
Alan Southard	- Newport Park
Graeme Guy	- Ringswell Park
Julie Wale	- Ringswell Park
Malcolm Thomas	- Ringswell Park
Geoff Threlfall	- National Association of Park Home Residents
Wendy Threlfall	- National Association of Park Home Residents

In Attendance:

Inspector Andrew Webber - Devon & Cornwall Constabulary

1

APOLOGIES FOR ABSENCE

Apologies were received from Councillors Hannaford, Baldwin and Newby, and Bob Norley.

2

MINUTES OF THE MEETING HELD ON 10 SEPTEMBER 2012

The minutes of the meeting held on 10 September 2012 were taken as read and signed by the Chair as correct.

Matters Arising

Minute No. 11 – Update of Portfolio Holder for Housing and Community Involvement

A resident referred to legal action being taken against site owners. He advised that over the past 8-9 years there had been a site breach in relation to failing to display the site licence. He had written to the Council on a number of occasions, but they advised that they would not prosecute in this matter. These types of issues would be raised later in the meeting.

Minute No 12 – Update on current legislation

It was noted that the second reading of the Mobile Homes Bill was scheduled for 1 February.

Minute No. 13 – Views of Representatives from Cornwall

Councillor Morris reported that she had received an email of thanks from Cornwall County Council for the invitation to attend the last meeting, and Mark O'Brien had also provided an update:

Cornwall were currently in the process of establishing their own Forum, and Cornwall Council are still in agreement of holding an annual joint Exeter/Cornwall forum.

The 'Park Homes in Cornwall: A resident's guide to services' pack has started to be distributed. This would be put on the agenda as a future item for consideration to produce something similar in Exeter, and would be forwarded to members for information.

Details have been distributed for a pilot insulation grant retrofit scheme to around 200 park homes. Keith Williams advised that there are grants available for Park Homes. Mr & Mrs Threlfall advised that insulation had been carried out at their property, and had made a great difference. However, this was expensive to do at between £500-£1000 per property. They could provide details of the firm that carried out the insulation. The interest for insulating park home properties would be passed on to the Leader.

3

TERMS OF REFERENCE

Following a request to update the Terms of Reference, the revised document was circulated for agreement. The changes included that substitutes are able to attend in the case that a member is unable to, or if someone has a particular interest in an agenda item.

Members of the Forum agreed the additional wording highlighted in the Terms of Reference.

4

TO WELCOME INSPECTOR ANDREW WEBBER

Councillor Morris welcomed Inspector Andrew Webber to the meeting.

Statistics were circulated from 'The Park Home Owners Justice Campaign' - a park home owner's questionnaire on the issues and abuse involved in park home living.

The following statistics were highlighted:

- 43% have reported living under the regime of an unscrupulous park owner, many of whom have been reported as aggressive, abusive, violent and dishonest.
- 31% of parks reported bullying of home owners by the park owner.
- 3% reported their park owners as being violent.
- 13% reported their park owners as abusive.
- 37% say the Police are not doing enough to protect park home owners.

Inspector Webber advised that he would investigate further if there was a national police perspective on this. He personally had knowledge of mobile park homes, and the city's functions, and a reorganisation would come into force on 1 April 2013 in which he would take a robust stance on policing.

A resident referred to a document 'Criminality within the Park Home Industry Best Practice Guidance', a copy of which was available on the web. He reported that he personally had been threatened three times, which have been reported. The Police Community Support Officer attends their park home meetings.

Another resident also advised of a case of harassment from the owner. This was found to be a civil matter, and no further action was taken. The file had since gone missing.

Inspector Webber advised that the best course of action was to make an occurrence log for each park, with one person having ownership of that. The logs should include all details and names, and should then be presented to the right forum, such as himself, to investigate further.

In relation to cases being civil or criminal, it was noted that criminal cases generally relate to a more serious situation, but this was a complex area.

Reference was made to traffic control on sites, such as parking. The need for tax and insurance on vehicles was included in the Park rules, but often this was ignored by park home owners. Inspector Webber advised that this would depend on the legal basis of that road and whether it was adopted by the local authority where Devon County Council is responsible for maintaining them. He added that untaxed vehicles can be used on site if it is private land.

The Chair thanked Inspector Webber for attending.

5

CLOSURE OF REFUSE GARDEN FACILITY

The Chair referred to an issue relating to the closure of the garden refuse facility at Newport Park. It was suggested that the owners did not carry out any consultation with the residents and that the facility has been closed without following the correct procedure. Residents had assumed the ground rent would include the removal of garden refuse, and made reference to Clause 34 of the licence where the licensee should make the collection of refuse where the local authority was not.

Keith Williams advised that he had been in contact with the owners who had notified him that they had received no complaints to the proposals, and that there had been some abuse to the facility. He had advised the owners that consultation was required, but he had not had sight of the draft letter. The site licence condition therefore had not changed and was still attached to the licence.

Councillor Morris advised that a similar situation had arisen in Exonia Park, and the residents association, together with Keith Williams, Bob Norley and ward councillors met to discuss. She suggested a similar meeting to this could be held at Newport Park as a way forward.

A resident referred to the similar problems in Exonia Park. This remained in the site licence as an amenity, but they cannot use it at present. Councillor Bull added that they were looking into various alternatives, including a community composting scheme and an arrangement with the City Council to provide industrial waste bins at a reduced fee. The issue was still not resolved, but they were working on it.

Elaine Kale advised that the site licence was not drafted with prosecution in mind. The Mobile Homes Bill will make the method of enforcement clearer, and enable improvement notices to be issued with prosecution in mind with the matter that needs attending to. However, under the new Bill, licences will continue as they are

currently, and local authorities are restricted in what they can do. It was noted that the site licence is in perpetuity, but the conditions are issued separately.

It was felt it would be useful if a written explanation could be provided as to the advice given by Keith Williams in relation to the closure of the garden refuse facility. The Chair advised that in Exonia Park, Councillors Morris and Bull had already written as councillors to all residents advising them as to what ECC are able/not able to do.

6

MODEL SITE LICENCE

The model site licence was circulated.

Previous discussions had been held as to whether the sites in Exeter could be transferred onto the new model licence, as all the sites have different conditions. This would make it easier to understand, and also make the enforcement procedure easier. The conditions can be imposed if they are consulted upon, including the site owners. The condition imposed by the Court at Ringswell Park would, however, need to remain.

In particular, reference was made to 2(iv)(a) which stated that where a porch is installed, only one door may be permitted at that entrance to the home, either on the porch or on the home. It was felt that this was a very restrictive clause. Keith Williams advised that these standards could be changed if a valid reason was established. This is a Government standard, and if amendments are required, it would need to be agreed by all parks.

With regards the references to 'caravans' in the document, it was noted that caravan is the legal definition. However, this could be changed to read 'caravan (in future referred to as mobile home)'.

It was agreed that the document would be emailed to all members, with a view to making any amendments. These would be collated and brought back to the next meeting for consideration as the main agenda item.

7

UPDATES ON CURRENT LEGISLATION

The Chair welcomed Elaine Kale, the City Council's Licensing Solicitor, to provide information on the Council's procedures.

Elaine advised that she had been a prosecuting solicitor for 18 years, and had been an Assistant Clerk to the Justices, and also a defence solicitor.

She advised that she will be providing information on the Council's procedures as to whether to prosecute under the Caravan Sites Act.

An investigation would be carried out by the client services department, eg environmental health. There is an enforcement policy to follow before it is passed to Legal Services, and they would bring forward their concerns over the alleged breach of condition. Legal Services adopt the Code of Crown Prosecutors and there are certain requirements relating to matters to bring forward to present to the court.

Summary offences are triable only in the Magistrates Court. These are considered to be less serious offences and are heard by a district judge or a panel of three

magistrates. The Council is able to prove the matter in the absence of the defendant.

The following procedures are taken as to the decision to prosecute:

Once the matter is cleared by the Assistant Director/Director it is referred to Legal Services to prosecute.

The first stage of this is the evidential stage. There needs to be a reasonable prospect of conviction on the evidence provided. This has to be an objective assessment by the prosecutor.

An evidential test is undertaken:

- Can it be used in court? Witness statements to the alleged offence needs to have an endorsement that they can be prosecuted, and this needs to be signed and dated.
- Timing is also a factor for summary offences – prosecution must take place within six months of the alleged breach.
- The quality of evidence – good factual evidence is needed. There is a new Code for Crown prosecutors out today, which decides if evidence is reliable, how strong it is and whether it will stand up in court.
- Credibility of evidence – if there is any reason to doubt it.

If sufficient evidence is provided, they would move onto the public interest stage where they would weigh up the factors for and against prosecuting:

- How serious the offences is.
- Level of culpability of the suspect.
- How much harm there is to the victim.
- The circumstances of harm caused – how it affects people.
- Age of suspect.
- Impact on community. This is not restricted to communities defined by location.
- Is prosecution a proportional response? The cost to the Council and the wider justice system, weighted against any likely penalty needs to be considered. Generally speaking, site owners have been fined in the region of £1,000. The new Bill gives a greater penalty of up to £5,000. Consideration also needs to be given as to how efficiently the case can be managed as public resources are being used.
- The requirement to consider sources of information requiring protection.

The decision as to whether to prosecute then needs to consider:

- Whether the matter can be proved in the absence of the defendant. The Magistrates need to be satisfied that it is proved beyond reasonable doubt.
- Fines. These go into central funds in the Magistrates Court. Costs can be recovered, but in the past only a contribution of this has been awarded from site owners.
- Ancillary order for the third conviction. An application can be made to the Court for the licence to be revoked. The third conviction, however, needs to be for the same site and the same licence holder. There is no certainty of this, and it is at the Court's discretion. Elaine added that licences are unlikely to be revoked for minor offences. If licences are revoked, it is simple for an accomplice of the previous site owner to apply for the licence, so it can have little affect.

As reported at the last meeting, the Residential Property Tribunals which has been established to deal with the majority of disputes formerly considered by the Courts, would become more useful.

The Mobile Homes Bill would enable notices to be drafted with a view to prosecution. As reported earlier, the second reading of the Bill would take place in the Lords on 1 February, and it was expected that the third reading would take place within the next couple of months.

Responding to a Member who queried why the mobile homes licences do not go through the Council's committees, Elaine advised that this is not delegated to the Licensing Committee, and is a housing function and therefore delegated to the Assistant Director.

In relation to the display of the site licence raised earlier in the meeting, it would depend if this was a deliberate failure to display, or whether it had, for instance, blown away or the owners had just omitted to display it.

If the alleged breaches are continuing, this can still be carried forward. However, if the breach was a one-off, then it is six months from that day to make a prosecution.

Any breaches should be reported to Keith Williams. This would then be dealt with at Assistant Director level to decide to whether to authorise it to go forward to Legal Services.

In response to a question as to what enforcements can take place if the owners are fined, Elaine advised that the prosecution is expected to be the sanction in itself. The fines are collected by the Court office, which also collect the Council's costs.

The Chair thanked Elaine for attending.

8

ITEMS FOR FUTURE MEETINGS

The Model Standards would be emailed for comments.

The Cornwall Residents Guide would be distributed. Members were asked to look at this before the next meeting for comments, and to decide whether something similar should be produced locally.

Keith Williams referred to the Green Deal launched today. He would find out further information in relation to subsidising insulation and report back.

9

ANY OTHER BUSINESS

There was no other business.

10

DATE OF NEXT MEETING - MONDAY 27 MAY 2013 AT 2.15PM

The date of the next meeting was noted.

(The meeting commenced at 2.15 pm and closed at 4.12 pm)

Chair