

<b>Key Decision Required:</b>	<b>No</b>	<b>In the Forward Plan:</b>	<b>No</b>
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## CABINET

13 DECEMBER 2013

### REPORT OF THE PORTFOLIO HOLDER FOR PLANNING AND CORPORATE SERVICES

**A.7 Caravan/Chalet Sites Occupancy Restriction Review**  
 (Report prepared by Planning Services)

**PART 1 – KEY INFORMATION**

<b>PURPOSE OF THE REPORT</b>
To inform Cabinet of the inconsistencies in occupancy restrictions across the District within caravan/chalet sites and to advise of the need to review these conditions in light of on-going planning enforcement investigations and recent planning appeal/application decisions.

<b>EXECUTIVE SUMMARY</b>
<p>A review of seasonal occupancy restrictions on holiday parks/homes across the district has highlighted variations in planning conditions which have led to complications when attempting to enforce the restrictions. The lack of consistency in respect to the occupancy conditions and the complications and delay this causes to taking enforcement action has resulted in a degree of uncertainty and apprehension amongst the current occupants of the affected sites.</p> <p>In view of the above issues, a review of the seasonal occupancy restrictions has commenced. It is envisaged that the review will:</p> <ol style="list-style-type: none"> <li>1. Identify occupancy restrictions on all holiday/caravan accommodation in Tendring District</li> <li>2. Increase understanding of flood risk issues impacting on accommodation</li> <li>3. Consider the policy context for occupation restrictions</li> <li>4. Review the current planning enforcement position</li> <li>5. Lead to a recommendation for future policy.</li> </ol> <p>Undertaking the review whilst monitoring the current situation in respect of breaches will enable the Council to apply a more consistent and considered approach in respect to investigating and initiating planning enforcement action in the future.</p>

<b>RECOMMENDATIONS</b>
<p><b>(a) That Cabinet supports the need for the review and has regard to the various implications highlighted within the report;</b></p> <p><b>(b) Officers continue to liaise with the Environment Agency to understand the</b></p>

flood risk issues on a site by site basis to be able to establish what type of accommodation and occupancy restrictions would be acceptable in which locations;

- (c) Officers continue to work with the various sites and individuals in the affected areas to improve their emergency planning procedures. In particular to improve their evacuation plans, collate site and owners' contact details and increase the level of sign up to the Environment Agency's early warning systems;
- (d) Further analysis of relevant planning appeal decisions, case law and national policies is undertaken to further understand the current situation elsewhere and to enable a policy recommendation to be made which is tailored to the Tendring District position;
- (e) Monitoring of winter occupancy on sites is carried out this coming winter, including at the following sites:
- Bel Air, St. Osyth
  - Point Clear Bay
  - Clear Springs, Dovercourt
  - Homestead Caravan Park, Weeley; and
- (f) A further report is presented to Cabinet in April/May 2014 with a policy recommendation informed by the further work outlined above.

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

The aims of the review reflect the Council's priorities contained within the Corporate Plan and Sustainable Community Strategy. In particular, the review will have reference to the Council's three priorities - 'Our Prosperity', 'Our People', and 'Our Place'.

### **FINANCE, OTHER RESOURCES AND RISK**

#### **Financial Implications**

##### **1) New Homes Bonus**

Having regards to the New Homes Bonus (NHB) any alterations to the seasonal occupancy restrictions could potentially have a positive financial impact.

The amounts paid for NHB are divided between Tendring District Council and Essex County Council on an 80-20 split. For a Band A property (typically the type of properties covered by occupancy restrictions) the breakdown is as follows:

Band	Retained by TDC	Retained by Essex CC
A	£767.58	£191.90

To qualify for the NHB an additional property must be added to the list held by the Listing Officer at the Valuation Office by early September in each year. Empty properties are deducted from the total number of dwellings. These amounts are paid for up to six years.

From a financial perspective the amounts that could be generated for the Councils are considerable, particularly if the numbers of caravans or chalets that become a main residence, making them eligible to attract NHB, run into thousands. However, this would bring its own difficulties with the District's infrastructure.

## **2) Council Tax**

Experience to date is that "officially" the Council, site owners and the caravan/chalet owners are mainly adhering to the conditions that require the unit to be used as holiday accommodation only. However, it is possible that many units are being used as a sole or main residence and the occupants are evading payment of Council Tax. It is believed that more people would be willing to admit their occupancy if the Council did not enforce the occupancy restrictions on the site owners. The site owners are known to take a tough line with people who admit their occupancy to the Council (presumably for fear of losing their site licence) yet some have been known to encourage people to buy units for occupancy pointing out that they do not have to pay Council Tax.

This results in TDC not only losing the NHB but also its 10% share of the Council Tax.

For every 100 units occupied as dwellings but not recognised as such, the loss of New Homes Bonus to TDC is approximately as follows:-

100 units banded as band A (this is the usual applicable band)

$$100 \times £767.58 = £76,758$$

The Council Tax not being collected for every 100 units in band A (based on a Clacton property) is  $100 \times £96.79 = £9,679$

Over six years this equates to £518,622 potential income for TDC for each hundred properties.

## **3) Local Council Tax Support Scheme**

Some of the potential additional income would be expended on the Local Council Tax Support Scheme (LCTSS) if the occupants were on a low income. The five-year residency rule may stop some applications but this would not apply if the person were of pensionable age. The cases identified to date do not give sufficient evidence of the typical ages of the occupants. However, when TDC used to administer the concessionary bus passes, applications were regularly received from addresses on caravan/holiday sites.

Where these properties are not included in the list of properties for Council Tax, the site is liable for business rates and the Council retains a proportion of the rates. However, business rates would be considerably less.

Properties on Bel Air are generally already included in the Council Tax list whereas the other sites are only shown in the list where a household has been identified as residing in the property.

## Risk

### Flood Risk

Tendring District is a peninsula flanked to the east by the North Sea between Harwich and Colne Point (St Osyth), the Stour estuary to the north (from Harwich inland to Manningtree), and the Colne estuary to the south (from Colne Point, St Osyth inland to Alresford).

Much of the area fronting the tide line is low lying and would be susceptible to regular flooding but for the presence of tidal flood defences which have been raised over the past 200 years. The majority of these tidal flood defences are “soft” earth and clay embankments, with “harder” and more robust concrete and sheet piled flood defences, reefs and rock breakwaters constructed close to the seafront of major population centres of Harwich, Walton-on-the-Naze and Jaywick (village and Brooklands frontage). Most other coastal and estuary areas benefit from earth and clay embankment defences, some of which are faced with concrete block work in a bitumen matrix to act as an anti-erosion measure against waves.

Coastal and Tidal flooding is recognised as a significant risk in the Community Risk Register for Tendring District (Essex Resilience Forum), on the basis of likelihood and potential impact that can arise and the vulnerability of the North Sea coastline to tidal surges and storm tides. The tidal cycle is influenced primarily by the gravitational effects of the moon and sun. These cycles are predictable with very little degree of uncertainty and therefore tidal level predictions can be made for both the time and magnitude of astronomical tides for locations around the coast.

However, there is a secondary influence on the magnitude and timing of high tides and this is caused by weather systems over the Atlantic and the North Sea. High atmospheric pressure over the western Atlantic has the effect of depressing the water surface causing water volumes to move to areas where atmospheric pressure is lower. Quite often this effect will result in a larger ocean volume entering the North and Baltic Seas. This effect is seen regularly throughout the year and if atmospheric pressure differential is relatively minor then the adjustment to predicted astronomical tide levels is also minor. This effect is known as a surge tide. This creates a funnelling effect with the North Sea volume being accommodated in an ever decreasing channel width. If this coincides with a high tide then it can add up to 2 to 3 metres level on top of the predicted astronomical tide. In such circumstances, the effects can be devastating to coastal communities with extreme danger should flood defences be overtopped or suffer from a structural failure (known as breaching).

This extreme circumstance occurred in January 1953 with devastating impacts for coastal communities in Tendring. 37 people died at Jaywick and 8 people died at Harwich. Sea levels peaked at more than 1.5 metres above predicted levels. Many of those that died in that event were in single storey properties or prefabricated buildings with no means of refuge above the flood level. There was no effective warning system for an event of this type at that time which could have potentially reduced impacts through the evacuation of people from vulnerable areas prior to the arrival of the high tide cycle.

The average seasonal cycle of mean sea level is caused by regular fluctuations in coastal temperatures, salinities, winds, atmospheric pressures, and ocean currents. Evidence shows that there is slightly more chance of surges affecting tide levels from Autumn through to late February.

In the past 10 years the Environment Agency have issued tidal flood warnings for the Tendring coast for events in March 2007 and Nov 2007, which raised concerns with regard to the potential for some wave overtopping and erosion with potential for breaching.

Current climate change advice given in the Technical Guidance to the NPPF indicates that mean sea levels for the east coast of England are expected to rise by 1.05m by the year 2112. This increase in sea level together with potential increase in storminess will mean that tomorrow's sea defences will have to be significantly higher and wider to provide the same standard of protection to low lying ground inland as that which is provided today.

## **LEGAL**

The options for consideration in this report are within the Council's legal powers.

## **OTHER IMPLICATIONS**

### **Housing**

The enforcement of occupancy conditions as a result of the review will not have any direct impact upon the Council's housing stock. However, it may have implications on the Council's duty towards the homeless.

The Council would need to consider the number of residents affected by any action and plan to deal with people who may become homeless. The level of provision needed would depend significantly on the personal circumstances of those people being enforced against. It is the Council's direct duty to find accommodation for children and those with mental health issues. In respect of the elderly the Council has a large sheltered housing stock which would help if older people need to be housed.

### **Emergency Planning/Services**

Considerations for Emergency Planning around caravan/chalet site occupancy revolve around the fact that these are not particularly robust dwellings and therefore during severe weather events, those living there become particularly vulnerable.

Coastal flooding is the District's greatest risk and for those sites located within coastal flooding areas it is vital that the site owner/operator has a robust site Flood Warning and Evacuation Plan.

This should include:

- Details on how the site receives Environment Agency Flood Warnings via their Floodline Warning Direct system, 24/7 365 days a year;
- What action is taken by the site operator/owner on receipt of each level of warning, (i.e. trigger for evacuation);
- If occupants are residential as opposed to holiday let, then these residents should also be asked to register with Floodline Warning Direct by the site operator / owner;
- Information should be displayed in each caravan/chalet, as with fire safety procedures;
- On receipt of flood warnings, how the site operator/owner cascades this information to all occupants on site;
- How the site operator trains and co-ordinates it's staff in relation to flood warning and evacuation procedures;
- How any evacuation operation will be co-ordinated by the site operator/owner;

- What transportation arrangements the site operator has in place for those residents/guests who do not have their own transport;
- What alternative accommodation arrangements the site operator/owner has for its customers.

Although Tendring District Council has a duty to provide emergency accommodation, the resources we can call upon are limited and have to be able to support the entire affected community, not just those in caravan parks. If people are choosing to live in caravan and chalets, as a “second home”, then it should be expected that if they are unable to stay at the site, then they can return to their “first home” or use alternative arrangements that the site operator has put in place.

### **Caravan Site Licencing**

Caravan sites are subject to licensing requirements under the Caravan Sites & Control of Development Act 1960. There are some exemptions listed in the Act and these tend to relate to small scale sites. Section 1 of the Act requires the occupier of land to obtain a site licence if he uses the land as a caravan site.

Section 5 gives Tendring District Council power to attach conditions to the site licence. Subsection 6 of this Section provides for the Secretary of State to specify Model Standards with respect to the lay-out and the provision of facilities, services and equipment for caravan sites or particular types of caravan site. For example, the Model Standards make reference to spacing, electrics and drainage. The Council should have regard to the Model Standards when considering what conditions to apply to the site licence.

A site licence can only be issued by Tendring District Council if the applicant has planning permission to use the land as a caravan site. If planning permission has been granted, the Council must issue a site licence and may attach conditions to the licence.

The period of occupancy which is included in the site licence is normally set with the granted planning permissions. Although there is provision in the Act, for the site licence conditions to be amended by the local authority after consultation with the site licence holder, the period of occupancy has remained in line with the planning conditions set. Although the site licence cannot give greater permissions than the planning permission it does not necessarily have to copy it and can provide a more restricted permission

To prevent caravan owners residing on holiday sites during the closure period (normally the winter period) and the site becoming an unofficial residential site, Public Experience Officers have in the past worked closely with Planning Enforcement Officers and carried out unannounced evening visits to monitor compliance with the occupancy requirement.

With several of the larger holiday sites in the district who have successfully gained full time holiday use, enforcement to ensure compliance of the occupancy requirement is more difficult.

Mobile homes are regularly occupied by low-income households due to lower prices in relation to fixed accommodation. As many sites do not have mains gas available more expensive heating fuels such as Liquefied Petroleum Gas (LPG) and electricity will be used. Older mobile homes typically have poor standards of thermal insulation and are, therefore, inefficient and expensive to heat with high carbon dioxide (CO<sub>2</sub>) emissions.

Two British European Standards currently exist for holiday homes and park homes.

BS EN3632 gives specification for park homes which are used exclusively for full time residency, while BS EN1647 allows holiday caravan units (holiday homes) to be built with a lower insulation level, which is suitable for mainly summer use, and have a lower standard of thermal insulation than park homes.

The National Caravan Council (NCC) and British Holiday and Home Parks Association (BH and HPA) have run a joint initiative to ensure that the UK caravan industry is doing all it can to advise the public of potential dangers of utilising a holiday home for residential use. These recognised organisations state that not all caravan units are intended for occupation in severe weather conditions. If a holiday home is used in cold months, you would expect a higher level of condensation, both visible and unseen which will affect its life and future value. Where central heating is provided (LPG), its primary purpose is to provide background heating during colder months, and not as the primary source.

### **Public Consultation**

Meetings have been held with Point Clear Bay residents to update them on the current situation. Assurances were given to the residents that they will not be forced to leave their homes this winter over potential breaches of planning conditions. A press release was published following one of the meetings. It outlined the Council's intention to publish a report outlining the current position of the planning status of the properties, recent planning appeal decisions, information on flood risk and the safeguarding of holiday accommodation in Tendring.

Since the press release has been published letters have been received from residents of a number of holiday/caravan sites affected either stating their support for allowing all year round occupancy at certain sites or outlining their concerns and objections to not enforcing the current restrictions on occupancy. The views have been mixed.

## **PART 3 – SUPPORTING INFORMATION**

### **BACKGROUND**

Tendring District contains 45 caravan sites (see map attached at A.1 Appendix A) and seven of these are residential. Over the years, various planning permissions, appeals and successful lawful use claims have resulted in these sites being subjected to 10 different occupancy restrictions (see list attached A.1 Appendix B). These occupancy periods range between 1 March to 31 January and include some sites which are allowed occupation on winter weekends and for 10 consecutive days at Christmas. Five caravan sites have been allowed all year round holiday occupancy due to the Government's 2006 publication "Good Practice Guide on Planning for Tourism" which records tourism as an increasingly year round activity. The occupation restrictions even vary within sites.

Within the site of Point Clear Bay, there are five different occupancy restrictions ranging from 1 March to 31 October (the original 1956 permission), to all year round residential occupancy that have been granted through appeals or through Lawful Use Certificates. This results in neighbours having different occupancy restrictions throughout the site.

Bel Air Holiday Park has six different occupancy restrictions again ranging from 1 March to 31 October (the original 1957 permission) to all year round holiday occupancy (due to no specific conditions relating to occupancy within the permission), to all year round

residential occupancy that have been granted through Certificates of Lawful Use. This again results in neighbours having different occupancy restrictions throughout the site.

The East and West Foreshore, Wrabness also has four different occupancy restrictions although there are 60 beach chalets that have no specific occupancy conditions but are referred to as Beach Holiday chalets.

Previous appeals (1990, 1998, 2000) for a number of applications for all year round residential use on the sites at Point Clear and Bel-Air have been dismissed with the inspectors sharing concerns on widespread permanent residential occupation because of conservation and environmental issues and concerns that there are some 4500 holiday homes on coastal sites in the District and the question of precedent was of considerable importance.

The result is a very inconsistent picture across the district in respect to occupancy restrictions on holiday sites/homes. This has led to complications in respect to the taking of planning enforcement action.

The purpose of the review is to understand the reason for the variations across the district and to explore the possibility of applying a consistent district-wide winter occupancy policy. The review needs to take into account various issues both internal to the Council and relating to external agencies particularly in regard to flood risk and nature conservation issues, emergency planning matters and housing/social welfare concerns.

## **CURRENT POSITION**

### **Planning Enforcement**

In respect of current planning enforcement action, there are 30 Breach of Condition Notices served on properties at Point Clear Bay relating to breaches of occupancy and Milesahead Properties have been recently prosecuted for breaches of the occupancy restrictions imposed upon their properties at Bel Air.

Breaches of the occupancy conditions remain on-going at both of these sites and it is therefore recommended that the monitoring of winter occupancy at these sites and others is continued over this coming winter. This will allow for an up-to-date picture of the situation to be retained, which will be required to inform the overall policy recommendation.

Furthermore, a number of holiday parks have now been granted planning permission for all year round occupancy on the proviso that the units remain for 'holiday use' and are not the owner's sole place of residence.

There are no plans to take further formal planning enforcement action ahead of the completion of this review. The report to Cabinet at the end of the review will include a recommendation in relation to future enforcement action.

### **Planning Policy Context (Flood Risk)**

The National Planning Policy Framework (NPPF) was published by the Department for Communities and Local Government in March 2012 and replaced a large range of topic-related planning policy statements and guidance, condensing this into a more concise format and allowing local plan policies to evolve where greater weight needs to apply to

certain local considerations on a specific topic.

Paragraphs 99 through to 108 of the NPPF relate to flooding and coastal change policy considerations. The key issues relating to the considerations of Park Homes, Static Caravans and short-let holiday accommodation are referred to in paragraph 100 of the NPPF which directs that “inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk”.

Table 2 of the Technical Guidance to the NPPF classifies:-

- “Caravans, mobile homes and park homes intended for permanent residential use” as “highly vulnerable” to flooding; and
- “Sites used for holiday or short-let caravans and camping, subject to a specific warning and evacuation plan” as “more vulnerable” to flooding.

Table 1 of the Technical Guidance to the NPPF directs that land uses which are classified as:

- “highly vulnerable” to flooding should not be permitted in the high risk Flood Zone 3 (i.e. they are inappropriate development in the highest risk flood zone) and should only be permitted in the medium risk Flood Zone 2 if the Exception Test is passed.
- “more vulnerable” to flooding should only be permitted in the high risk Flood Zone 3 if the Exception Test is passed. These land uses are wholly appropriate for planning consideration within the medium risk Flood Zone 2 but must be accompanied by a flood risk assessment. See attached table at A.1 Appendix C which illustrates flood risk vulnerability and flood zone compatibility.

For the Exception Test to be passed it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Both elements of the test will have to be passed for development to be allocated or permitted

If a planning application is made today for a static caravan or park home that is to be located in a high risk flood zone (Flood Zone 3) and that facility is intended for permanent residential use, then the LPA should not permit the development.

If a planning application is made today for a short-let camping and caravan site or for holiday accommodation within a high risk flood zone (Flood Zone 3) then the land use can only be considered as appropriate to the location if the LPA determine that the NPPF’s “Exception Test” has been passed.

In medium flood risk areas (Flood Zone 2), both land uses are potentially appropriate, but the sites proposed for permanent residential use must first pass the NPPF’s “Exception Test”.

The NPPF does not place any consideration relating to the presence of existing flood defence infrastructure on the appropriateness of the land to these usages. It is the basic susceptibility of this low lying land to the potential of flooding and the vulnerability of this form of accommodation and whether it is a home (residential) or used for holiday that is how appropriateness has been determined by DCLG in the policy.

## BACKGROUND PAPERS FOR THE DECISION

No background papers

## APPENDICES

- A.7 **Appendix A** (Map of the Tendring District illustrating number and location of caravan/holiday parks)
- A.7 **Appendix B** (Occupancy Summary)
- A.7 **Appendix C** (Table 3 of the Technical Guidance to the NPPF)



## **A7. Appendix B**

### **Occupancy Summary**

Dates	Caravan Parks
1 February - 30 November (Inc). Any weekend commencing Noon Friday and ending Noon Monday between 1 December and end of January. Any period of ten consecutive days which include Christmas Day and New Year's Day	Southcliffe Trailer Park
1 March - 31 October (Inc.)	Ashley Holiday Park Dovercourt Haven Caravan Park Fletchers Caravan Site Greenacres Caravan Park Hutleys Caravan Park Lakeside Caravan Park Martello Beach Holiday Park Mill Farm Pretoria Caravan Park Silver Dawn Holiday Park Pumphill Caravan Park
1 March to 31 October. Weekends from noon Friday to Noon Monday between 1st November to end February and ten consecutive days which shall include Christmas day and New Year	Bel Air Holiday Park, Bentley Country Park Orchard Holiday Park
1 March - 14 January	Clear Springs Elm Farm Caravan Park Firs Caravan Park Flag Caravan Park Leisureglades Park Sacketts Grove Caravan Park Seawick Holiday Village St. Osyth Beach Holiday Park
1 March - 31 January	Oaklands Holiday Park
1 March - 16 January	Homestead Lake Country Park
1 March - 30 November + Winter Weekends + 10 Consecutive days	Brightlingsea Haven Leisure Park
15 March - 31 October	Martello Caravan Park
All year round holiday use	Highfield Holiday Park New Hall Lodge Park Valley Farm Caravan Park Weeley Bridge Caravan Park Naze Marine Holiday Park
Residential	Castle Hill Park Flagship Caravan Park Frating Caravan Park Greengates Mobile Home Park Greenlawns Meadowview Residential Park Old Mill Mobile Home

**Table 3: Flood risk vulnerability and flood zone ‘compatibility’**

Flood risk vulnerability classification (see table 2)	Essential infrastructure	Water compatible	Highly vulnerable	More vulnerable	Less vulnerable
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	✓	Exception Test required	✓	✓
Zone 3a	Exception Test required	✓	x	Exception Test required	✓
Zone 3b functional floodplain	Exception Test required	✓	x	x	x

Flood zone (see table 1)

**Key:**     ✓ Development is appropriate.  
               x Development should not be permitted.