



**COUNCIL CABINET**  
**9 September 2015**

Report of the Cabinet Member for Urban  
Renewal

# ITEM 9

## Revisions to the Written Statements for Mobile Homes

### SUMMARY

- 1.1 This report seeks Full Cabinet approval to update the terms contained within the Written Statements for Derby's mobile home sites, which are the Imari Park Traveller site and the Shelton Lock Park Homes site.
- 1.2 The Written Statement forms a legal agreement between Derby City Council (DCC) and the residents of the mobile home sites and details the rights and responsibilities of each party to the Agreement. The proposed revisions are to:
  - Bring the agreements in line with the Model Standards,
  - Incorporate the new terms implied by the Mobile Homes Act 2013, and
  - Separate the water charge from the pitch fee at the Shelton Lock Park Homes site, applicable to new residents only.
- 1.3 A copy of the amended Written Statement for Imari Park can be found at Appendix 2 and the revised Written Statements for current and new residents of Shelton Lock can be found at Appendix 3.

### RECOMMENDATION

- 2.1 To approve the proposed amendments to the Written Statements to align them with new legislation and Model Standards (subject to any consultation amendments and/or any First-Tier Tribunal (Property Chamber) interventions).

### REASONS FOR RECOMMENDATION

- 3.1 The Written Statement forms a legal agreement between Derby City Council (DCC) and the residents of the mobile home sites and details the rights and responsibilities of each party to the Agreement. As a result it is essential that it is reviewed regularly so the terms remain up to date and incorporate the relevant legislation and Model Standards.
- 3.2 The current Written Statements have received only minor amendment since 2002 and a recent review undertaken by Derby City Council and Derby Homes identified areas of the Agreement inconsistent with the Model Standards for Caravans in England

2008 and the Mobile Homes Act 2013.

- 3.3 By separating out the water charges in agreements, a proposal that will only apply to new residents at the Shelton Lock Park Homes site, DCC is simplifying the pitch fee. Residents will benefit as they will be billed directly by Severn Trent based on their actual water usage as each pitch has an individual water meter.



Derby City Council

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Report of the Acting Strategic Director for Neighbourhoods

<b>SUPPORTING INFORMATION</b>
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- 4.1 Following a recent review of the current Written Statements for Imari Park and the Shelton Lock Park Homes site by officers from DCC and Derby Homes, amendments to both agreements are required.
- 4.2 The proposed revisions update the Written Statements to meet the standards required by the Mobile Homes Act 2013 and the Model Standards for Caravans in England 2008.
- 4.3 The Written Statements incorporate both express and implied terms. Express terms are those agreed directly between the contracting parties whereas implied terms are prescribed by law and supersede any conflicting express terms.
- 4.4 The Mobile Homes Act 2013 implies terms into the Written Statement and updates the law surrounding:
- The sale/gift of a caravan/pitch,
  - The payment of commission following a sale, and
  - Changes in the pitch fee.
- 4.5 The Model Standards are specified by the Secretary of State in accordance with s.5(6) of the Caravan Sites and Control of Development Act 1960 and relate to the layout of the site alongside the provision of facilities, services and equipment at mobile home sites.
- 4.6 To ensure that the Written Statements align with the Model Standards for Caravan Sites in England 2008 the express terms must be amended to address:
- vehicular parking on pitches where space permits, applicable to Park Homes residents only,
  - the construction of enclosed porches,
  - the construction of carports within the separation distance (the distance required between the mobile homes to prevent fire spread), and
  - the construction of fencing and the materials permitted.
- 4.7 The revised Written Statements for Imari Park and the Shelton Lock Park Homes site have been updated to reflect changes in legislation and Model Standards ensuring that DCC is acting in accordance with best practice and ensuring the residents are aware of their rights and responsibilities.

- 4.8 The proposed revision to separate the water charges from the pitch fee, applicable only to new residents at the Shelton Lock Park Homes site, is a measure aimed at re-aligning the pitch fees with market values in the long-term. The inclusion of the water charges as a composite element of the pitch fee has historically distorted the real term value of the pitch fee. Separation, as proposed, allows residents to pay Severn Trent directly, based on their actual water usage as each pitch is individually metered.
- 4.9 The water charges at Imari Park are already paid directly to Severn Trent by the residents, ensuring that the amount they pay directly relates to their water usage and allows them to control their bills more effectively.

<b>OTHER OPTIONS CONSIDERED</b>
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- 5.1 Amending the Park Homes Written Statements express terms to separate the water charges from the pitch fee applicable to all current and new residents. This option was discounted as being unlawful, as rent increases not based on the Retail Price Index or the cost of site improvements are not permitted under the Mobile Homes Act 2013.
- 5.2 By taking no action DCC would not be acting in accordance with best practice and so this option has been discounted.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b>  <b>Risk Management</b> <b>Service Director(s)</b> <b>Other(s)</b>	Olu Idowu, Head of Legal Services - Approved Toni Nash, Head of Adults Health & Housing & Resources Finance - Approved Liz Moore, Acting Head of HR - Approved Alistair Burg, Interim Head of Strategic Asset Management and Estates - Approved Richard Boneham, Head of Governance & Assurance - Approved  Ann Webster Lead on Equality and Diversity - Approved David Enticott, Director and Company Secretary. Derby Homes - Approved Ian Fullagar, Head of Strategic Housing - Approved
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<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Carly Saunt 01332 640321 carly.saunt@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Imari Park Written Statement Appendix 3 – Park Homes Written Statements
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<b>IMPLICATIONS</b>
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### **Financial and Value for Money**

- 1.1 The separation of the water charges from the pitch fee applicable to all new residents of Park Homes will protect rental income ensuring it reflects market values in the long-term.
- 1.2 The extent and pace to which this will impact on rental income is limited as it only applies to new residents.
- 1.3 Any costs associated with consulting the residents and distributing the new Written Statements will not exceed £500 and will be taken from existing budgets.

### **Legal**

- 2.1 Legal advice has been obtained prior to the development of the proposed Written Statements to ensure they align with the Mobile Homes Act 2013 & 1983, the Model Standards for Caravans in England 2008 and the Mobile Homes (Written Statement) (England) Regulations 2006.
- 2.2 The residents will have 28 days following delivery of the new Written Statements to consult with the Council regarding any of the new express terms, after which it will be presumed that they have accepted the new terms where no challenges are made.
- 2.3 Where a challenge is made during the consultation period which is not resolved through negotiation it will be escalated to the First-Tier (Property Chamber) Tribunal and the new express terms will not come into force until the challenge has been effectively resolved.
- 2.4 The Mobile Homes Act 1983 provides the residents a period of 6 months, following their presumed acceptance, to challenge any changes to the Written Statement via county court proceedings or referral to an arbitrator.
- 2.5 These proposals affect 2 wards in Derby as the Imari Park travellers site is located in Sinfen and the Shelton Lock Park homes site is located in Chellaston, but any subsequent impact will be minimal as the proposals only apply to the specific sites included in this report.

### **Personnel**

- 3.1 None directly arising from this report.

### **IT**

- 4.1 None directly arising from this report.

### **Equalities Impact**

- 5.1 The proposed amendments to the Written Statements will apply to all residents at both the Park Homes and Imari Park traveller's site equally and any equality issues raised by the residents will be addressed during the 28 day consultation period following delivery of the Written Statements.
- 5.2 The Imari Park Traveller's site is the only authorised traveller site within the city and its tenants include a number of Irish travellers which are protected under the Equality Act 2010 against discrimination as their race is a protected characteristic according to the act.

### **Health and Safety**

- 6.1 The Written Statement contains conditions which protect the health and safety of, occupants, employees, contractors and the wider community. The proposals contained within this report strengthen our commitment to health and safety.

### **Environmental Sustainability**

- 7.1 None directly arising from this report.

### **Property and Asset Management**

- 8.1 None directly arising from this report.

### **Risk Management**

- 9.1 None directly arising from this report.

### **Corporate objectives and priorities for change**

- 10.1 A strong community.