

FLINTSHIRE COUNTY COUNCIL LICENSING COMMITTEE

Procedure for meetings considering applications arising from the Mobile Homes (Wales) 2013 Act

RESPONSIBILITY FOR DECISIONS

1. All licence applications for Residential Mobile Home Parks are taken by Flintshire County Council's Licensing Committee. The Committee is comprised of 12 Members. The quorum for Licensing Committee is 3 Members.
2. The adoption of this procedure was taken by Licensing Committee on 21st February 2024.

PRE-HEARING ARRANGEMENTS

3. The determination of a licence application should be made within two months of the submission of a complete application. If this timescale cannot be achieved, the applicant and Flintshire County Council should seek to agree an alternative period for determination, where possible.
4. Notices of hearings will always include details of:
 - The rights of parties to attend the hearing and that they may be assisted or represented by any person whether or not that person is legally qualified.
 - Parties' abilities to address the committee, to give information and call witnesses.
 - The consequences of non-attendance.
 - This hearings procedure.
 - The requirement that all parties notify the licensing authority:
 - If they are attending or will be represented at the hearing
 - Of any request for permission for a witness to appear at the hearing, the name of the witness, and a brief description of the point or points on which that person will be able to assist the hearing.
5. Committee agenda papers will be dispatched at least five working days prior to a hearing.

HEARING PROCEDURES

6. The Committee may exclude the public from all or part of a hearing where it considers the criteria set out in schedule 12A of the Local Government Act 1972 require the matter to be dealt with in the absence of public and press and that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

7. The Committee will hold its deliberations in private accompanied by the Case Officer and Legal Officer.
8. The order of business shall be at the discretion of the Licensing Committee but will normally proceed in accordance with the following paragraphs.

Time Frames

9. The Chair will require all parties at the hearing to be focussed and succinct, avoiding repetition and matters irrelevant to the matter before the committee.
10. All parties shall be allowed an equal maximum period of time overall for the presentation of their case and the testing of their opponents' cases.
11. Parties may at the commencement of the hearing request an alteration of maximum time periods (to provide for more or less time).
12. Any alteration agreed will apply equally to all parties and agreed by the Chair.
13. In addition, the Licensing Committee may at any stage vary the maximum time periods for representations, where it considers that it is necessary to do so in the interests of natural justice and/or to enable a fair hearing to take place. Any variation will apply to both parties.

Questioning

14. Members of the Committee may ask any question of any party or other person appearing at the hearing.
15. With the permission of the Committee, a party may question any other party. The right to ask questions is not automatic. If permitted, such question time will usually be limited to 3 minutes.

Qualified Privilege

16. Statements made in the Committee meetings are subject to the general principles of the law of defamation. However, the Committee's proceedings are regarded in law as a 'privileged occasion'. As the Committee's proceedings are quasi-judicial in nature, the following criteria must be met:
 - any opinions expressed are honestly held;
 - opinions/statements are based on the facts of the matter;
 - opinions/ statements are on a matter of public interest;
 - a clear distinction is made between what is fact and what is opinion;
 - no malice.

Information given at the hearing

17. At the hearing a party is entitled to:

- Provide further information in support of their application or representation or notice in response to a point upon which the Licensing Committee has given notice to the party that it will want clarification.
- Address the Committee.
- With the permission of the Committee, ask questions of another party.
- With the consent of all other parties, provide additional documentary, or other information.

18. In considering any application or representations or notice made by a party, the Committee may take into account documentary or other information produced by a party in support of their application or representation or notice, either before the hearing or, with the consent of all the other parties, at the hearing.

19. Where there is more than one representation raising the same or similar grounds, the Licensing Committee can request that only one party address them on behalf of the parties who have made the representations in question.

20. In coming to a decision, the Committee shall disregard any information given by a party or witness which is not relevant to the matter before the Committee, or to the relevant licensing objective(s) under consideration.

21. Should a party notify the Licensing Committee it does not intend to attend a hearing or fails to attend without giving adequate notice, the hearing will be conducted in the party's absence unless the Licensing Committee considers it to be in the public interest to adjourn the hearing.

Adjournments

22. The Committee may adjourn a hearing to a specified date or arrange for it to be held on specified additional dates, when it considers this to be necessary for its consideration of any representations or notice made by a party, but will not exercise its powers to do so if the effect would be that the application would be automatically treated as granted or rejected.

Conduct of hearings

23. Hearings will normally be conducted in accordance with the order of business attached in Appendix A and the Council's rules of procedure applicable to committees in so far as they are not modified by the order of business attached.

24. Any person may be excluded from a meeting or required to leave a meeting where in the opinion of the Chair they are causing a disturbance to the running of the meeting and have not desisted from doing so following a request; or where any person is so disruptive that their conduct if allowed to remain would prevent the meeting from proceeding in a fair and acceptable manner.
25. The Chair shall decide, having taken the advice of the Legal Advisor, all matters of relevancy, all matters of order and the interpretation of these procedures accordingly and if it appears appropriate, the Chair may, at his/her sole discretion waive compliance with any part of the order of business and rules 13.4 and 13.5 of the Council's rules of procedure to facilitate the transaction of business at the meeting.
26. The chair shall decide, having taken the advice of the Legal Advisor, all matters of relevancy, all matters of order and the interpretation of these procedures.

AFTER THE HEARING

27. The Licensing Committee shall produce minutes of each hearing that will be agreed and signed as a correct record at a subsequent meeting of the committee.
28. Any failure to comply with this procedure or the Mobile Homes (Wales) 2013 Act prior to a panel making a determination shall not render the proceedings void. The panel will be entitled to remedy any irregularities prior to making a determination should any party be prejudiced by a failure to take action.

APPENDIX A

LICENSING COMMITTEE

ORDER OF BUSINESS FOR HEARINGS CONCERNING THE MOBILE HOMES (WALES) 2013 ACT

1. Apologies for absence

This will include all notifications of non-attendance from interested parties.

2. Declarations of interest

Committee members to make any declarations (if any).

3. Minutes

To approve the minutes of any previous meetings.

4. Meeting Procedures

The Committee Clerk to explain the order of business and the procedures to be followed.

5. Introductions

The Chair will invite all present to introduce themselves.

6. Additional documentation and other preliminary issues

The Chair will invite parties to make representations for the inclusion of additional documentation. Any additional documentation agreed by all parties will be distributed and those present given sufficient time to consider the contents. Should extensive additional documentation be tabled, the Licensing Committee will adjourn the meeting if it considers the principles of natural justice and the public interest would be better served.

The parties shall identify any witnesses notified to the Licensing Committee. The Committee will consider any requests to hear any witnesses.

7. Officer presentation

A council officer, usually the case officer, will present the written report and give any available updates.

8. Applicant's presentation

The applicant, or a nominated representative, will present their case calling any witnesses notified to all parties in advance.

9. Follow-up to applicant's presentation

The Chair will invite members of the Committee to clarify any points in the applicant's presentation. However other parties to the application do not have an automatic right to ask questions of other parties and their witnesses. These parties may request permission to do so but must be direct and to the point and not a substitute for presentations. If the Chair does give permission the order will be as follows:

- (a) Other parties.
- (b) Members of the Licensing Committee

10. Presentation(s) by other parties

All parties making relevant representations will be invited to present their case calling any witnesses notified to all parties in advance. In cases where two or more parties have made a similar representation, the chair will invite them to appoint a single spokesperson.

11. Follow-up to presentations by other parties

The Chair will invite members of the Committee to clarify any points in the presentation by other parties. However, the applicant and any other parties to the application do not have an automatic right to ask questions of other parties and their witnesses. These parties may request permission to do so but must be direct and to the point and not a substitute for presentations. If the chair does give permission the order will be as follows:

- (a) By the applicant
- (b) By other parties
- (c) By members of the licensing committee.

12. Other parties closing statement

The other parties will be given a maximum of 5 minutes to sum up their representation(s).

13. Applicant's closing statement

The applicant will be given a maximum of 5 minutes to sum up their representation.

14. Decision notification

The Committee will normally hold its deliberations in private when reaching a decision. The decision and the reasons involved will be given by the service as soon as practicable after the end of the hearing and confirmed in writing within 10 working days, where possible.

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