

Report of:	Head of Environmental Health
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Key Decision:	Yes
Report Track:	Cabinet: 01/02/16

CABINET
1 FEBRUARY 2016
FEES AND CHARGES FOR THE LICENSING AND INSPECTION OF MOBILE HOME SITES

1 Purpose of Report

- 1.1 To seek approval to adopt a Policy on the introduction of a scheme fees and charges for the licencing of mobile homes sites following changes to the Caravan Sites and Control of Development Act 1960.

2 Recommendations

- 2.1 That Cabinet approves the Policy on the new scheme of fees and charges for the application, amendment and transfer of mobile homes site licences, an annual inspection fee, fees for the deposit of Site Rules and enforcement costs.

3 Key Issues and Reasons for Recommendation

- 3.1 The Caravan Sites and Control of Development Act 1960 has been amended to allow local authorities to make reasonable charges for licencing of mobile homes sites. The changes only apply to sites where the provisions of the Mobile Homes Act 1983 apply. There are currently 6 sites in Cannock Chase District ranging from sites with two units to a single site with 100 park homes.
- 3.2 In accordance with other areas where the authority charges for licensing activities, it is considered reasonable to recover the costs of the regulatory activities that it undertakes. This report recommends that the relevant fees and charges are included in the register of Fees and Charges for 2016/17.
- 3.3 The Policy includes the introduction of fees to applicants for a new caravan site licence, the amendment or transfer of existing licence, an annual site licence,

and for the depositing site rules with the Council, along with enforcement costs in respect of any offences.

4 Relationship to Corporate Priorities

4.1 This report supports the Council's Corporate Priorities as follows:

More and better housing – Improving the Council's social housing stock and raising standards in the private rented sector.

5 Report Detail

- 5.1 Caravan site licences have historically been granted for sites that have planning permission for a caravan site under the Caravan Sites and Control of Development Act 1960 (CSCDA60) (as amended). This legislation has now been amended by the Mobile Homes Act 2013, which was introduced in order to provide greater protection to occupiers and owners of residential park homes as the existing legislation had not been updated for more than 50 years.
- 5.2 The Act introduces some important changes to the buying, selling or gifting of a park home and the pitch fee review process. There is an expectation that councils will inspect sites annually and use the additional powers to ensure compliance with site licence conditions.
- 5.3 The Council can also now charge a fee for different licensing functions, serve enforcement notices and publish any site rules relating to a site. However, the fee generated by the Mobile Homes Act 2013 is not designed to include investigation of harassment or matters not related to the site license – these should be dealt with through Residents Associations or other appropriate channels.
- 5.4 The fees and charges set will aim to achieve the full cost recovery of providing the service. Fees are not set to be an economic deterrent to certain activities or to raise funds. Enforcement costs against unauthorised activities do not form part of these fee costs.
- 5.5 The charges only apply to 'relevant protected site', which is a licensed caravan site that is not exempted. A site is exempted if it is licensed or permitted exclusively for holiday use or there is a restriction on its use as a permanent residential site.
- 5.6 There are currently 6 sites in Cannock Chase district including 2 sites with less than 10 pitches, 3 sites with 20-30 pitches and 1 site with more than 30 pitches. The latter would be exempt from the Policy because it is subject to a restriction on both the planning permission and the site licence prohibiting its use for residential occupation between 1st January and 31st March each year.

6 Implications**6.1 Financial**

The fees and charges set will aim to achieve the full cost recovery of providing the service. Fees are not set to be an economic deterrent to certain activities or to raise funds. Enforcement costs against unauthorised activities do not form part of these fee costs.

6.2 Legal

None

6.3 Human Resources

None

6.4 Section 17 (Crime Prevention)

None

6.5 Human Rights Act

None

6.6 Data Protection

None

6.7 Risk Management

The Council has a duty to publish the Fee Policy. Failure to do so may render any fees and charges levied invalid.

6.8 Equality & Diversity

None

6.9 Best Value

None

7 Appendices to the Report

Previous Consideration

Report on Park Homes Housing Policy
Development Committee 27 January 2015

Background Papers



Mobile Homes Act 2013 – Fees Policy

2015

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 8. Publishing and revising the fees policy
- Annex 1 – Elements which can be included in fee setting

Related documents

The following documents have been consulted when drafting this policy

The Caravan Sites and Control of Development Act 1960 as amended (CSCDA60)

Mobile Homes Act 2013 (MHA 2013)

Regulators Compliance Code

Cannock Chase Enforcement Policy

DCLG Guidance on Site Licensing Fee Setting – (link on website)

Introduction

Cannock Chase District Council has granted caravan site licences under the Caravan Sites and Control of Development Act 1960 (CSCDA60) (as amended) for sites that have planning permission for a caravan site. This legislation has now been amended by the Mobile Homes Act 2013. The Mobile Homes Act 2013 was introduced in order to provide greater protection to occupiers and owners of residential park homes as the existing legislation had not been updated for more than 50 years. This Act introduces some important changes to the buying, selling or gifting of a park home and the pitch fee review process. There is an expectation that councils will inspect sites annually and use the additional powers to ensure compliance with site licence conditions. The Council can also now charge a fee for different licensing functions, serve enforcement notices and publish any site rules relating to a site. The fees generated by the Mobile Homes Act 2013 are not designed to include investigation of harassment or matters not related to the site license – these should be dealt with through Residents Associations or other appropriate channels. The fees and charges set will aim to achieve the full cost recovery of providing the service. Fees are not set to be an economic deterrent to certain activities or to raise funds. Enforcement costs against unauthorised activities do not form part of these fee costs.

1. Fees charged for site licences

The changes introduced by the Mobile Homes Act 2013 for site licensing come into force on 1 April 2014. These include powers for local authorities to charge fees for their licensing functions in respect of “relevant protected sites”. A *relevant protected site* is defined in the Act as any land to be used as a caravan site with planning consent, other than one where a licence is:

- granted for holiday use only
- in any other way subject to conditions which restrict the usage of the site for the stationing of caravans for human habitation at certain times of the year (such as planning conditions). Relevant protected sites to which the legislation applies are typically known as residential parks, mobile home parks and Gypsy Roma and Traveller sites. Sites which do not fall within the definition of ‘relevant protected sites’ are still subject to the licensing requirements contained within the CSCDA60, but the provisions relating to payment of fees do not apply. Under the new Act a fee can be charged for

- applications to grant a new licence
- applications to transfer or amend the conditions on an existing licence
- annual licence fees for administering and monitoring existing site licences. This policy details the fees to be charged for all of these licensing functions. The fee levels have been calculated based on the estimated average time and costs involved in undertaking the activities involved. (Annex 1 details what the Council can consider in calculating the fee levels) The fee rates set out in this policy cover the period 1st April 2016 to 31st March 2017.

2. Application for a new site

All sites require a site licence to operate (subject to exemptions in the CSCDA60). Failure to apply for licence is an offence under Section 1(2) of CSCDA60. The Council may only issue a licence for a site with a valid and correct planning permission for the use. Any application made before the planning status has been awarded must be processed within 6 weeks of the planning decision. Sites which already have the correct planning permission in place must be processed within 2 months of the licence application. A Land Registry search will also be conducted, the cost of which will be included in the fee. The proposed fee for a new site licence is currently **£289**.

3. Transfer/amendment of existing site licence

Where a licence holder wishes to transfer the licence an application must be made to the Council, for which a fee is payable. The fee must accompany the application to transfer the licence. Similarly, where a site owner requests an amendment to site licence conditions the Council can charge a fee for this function. Applications can be made by licence holders to vary or cancel conditions when the fee is payable at the application stage. If the Council deems it necessary to alter conditions there will be no fee payable. The fee proposed for an application for transfer/amendment of site licence conditions is **£156**. Where significant amendments to the site licence conditions are requested and a site visit is necessary an additional fee of **£58.50** will be applied. In the case of a transfer where a Land Registry search is considered necessary the relevant cost will be included in the fee.

4. Annual fee for Existing Site Licences

All relevant protected sites must pay an annual fee to the council (subject to any exemptions stated in this policy). The fee is due on 1st April 2016 and annually thereafter.

The annual fee covers the costs associated with administration, an annual site inspection to ensure compliance with the site licence conditions and a revisit to ensure compliance with any outstanding works required. If there is still a breach in any site licence conditions at the point of the revisit, further charges may be payable to cover the cost of any enforcement action which may be taken. (See enforcement costs – section 6.)

A fee of £19.50 will be applied to each application, site inspection and request for the deposit of Site Rules to reflect costs incurred the Council in reviewing the Policy and preparing work plans in relation to regulation of Mobile Homes.

The Department for Communities and Local Government has produced guidance for fee setting offers a variety of suggested options for local authorities in calculating the annual fee:

Option 1 – fee per pitch (A fee based on the total cost to the local authority carrying out its annual licensing function for all sites, divided by the total number of units over all the sites which will give a price per unit)

Option 2 – fee based on site size bandings

Option 3 – fee based on a risk rating that takes into account the size of a site, the level of compliance on a site and confidence in management

Option 2 has been adopted as it is considered appropriate given the limited number of sites within the district. Charges for the first year (2016/17) have been based on average estimates. Fees will be assessed each year to determine accuracy as part of the Council's annual fees and charges setting process. The bandings set are :-

- 2 – 10 units
- 10– 30 units
- 30 plus units

Conditions

The conditions on the existing site licence will remain the same until the Council deems that they are out-dated or incorrect, and then a review will take place, or unless an application is made to amend conditions on the license by the site owner

Sites exempted from Annual Licensing fees

- sites that are not relevant protected sites
- sites with a single unit.

These categories of site are exempt from the annual licensing fee as the Council does not intend to carry out annual inspections of these sites, however any complaints would be dealt with as appropriate.

Charging Arrangements

For the purpose of this policy the period covered by the annual fee will be 1st April to 31st March each financial year. The fee will be charged to the site owner/licence holder and invoices will be sent at the start of the financial year with payment due within 30 days. (Legislation allows the licence holder to pass on the annual fee cost to the resident's pitch fee) Where a new site licence is issued part way through the year, the annual fee will also be due in the same year and an invoice will be sent after the licence has been granted for the pro-rata amount. Where an amended licence is issued part way through the year (which includes either additional units or a reduction in units), the change in annual fee would be calculated on a pro-rata basis for the remainder of the year and any difference in fee would be adjusted against the following year's annual fee. In the event that an annual fee is not paid within the terms of the invoice the Council may apply to the First Tier Tribunal (Property Chamber) for an order requiring the licence holder to pay the amount due. Fees are not refundable if the application is refused.

5. Enforcement Costs

Where there has been a breach in a site licence condition which comes to the attention of the Council, it may serve a compliance notice. The CSCDA60 details the elements which a local authority may include when imposing a charge for enforcement action. These include the time involved in deciding to serve and prepare the notice. A detailed breakdown of the relevant expenses would be provided with the compliance notice. Charges would be based on an hourly rate in addition to any other costs incurred, for example legal costs.

Hourly rate for enforcement costs = £39

Charges for enforcement costs cannot be passed onto the resident's pitch fee. If any works in the compliance notice are not carried out, the licence holder commits an offence and the local authority may consider taking legal proceedings. Any costs associated with this

process would be at the discretion of the court. If a prosecution was successfully taken, the Council would have the power to carry out the works in default.

6. Fees for depositing Site Rules

Site rules are different to the site licence conditions and are put in place by the owner of a site to ensure acceptable standards are maintained which will be of benefit to occupiers or will promote and maintain community cohesion on the site. The Mobile Homes Act 2013 changes the way site rules must be agreed between both parties. The Council must keep an up-to-date register of site rules on relevant protected sites and publish the register on-line. Before publishing the site rules the Council will ensure the rules deposited have been made in accordance with the statutory procedure – a fee can be charged for this function.

Any site rules deposited with the local authority for the first time, or applications to vary or delete existing site rules, must be accompanied by the appropriate fee. The fee is currently **£117.00** and reflects the fixed costs for this function and is the same for a first deposit, a variation or deletion because the procedure is similar for all three deposits.

7. Publishing and revising the fee policy

This fees policy will be published on the Cannock Chase District Council website at www.cannockchasedc.gov.uk. The fees detailed in this policy have been determined based on experience of dealing with site licensing historically with consideration of the changes that the new Act has introduced. Some of the processes are new (for example the depositing of site rules) and therefore estimates have been made as to the cost of providing these services. In addition, at the time of producing this policy some elements of the licensing regime are still awaiting further regulation by government which may impact on the processes and the time involved and may, therefore, result in a revision to the proposed charges at a future date. This policy, including the applicable fees and charges, will be reviewed no later than March 2018.

Elements included in fee setting

The DCLG guidance sets out the activities that the Council can include when calculating its annual fee. These include:

- letter writing/ telephone calls etc. to make appointments, request any documents or other information from the site owner or from any third party in connection with the licensing process;
- handling enquiries and complaints;
- updating hard files/ computer systems;
- updating the EU Directive website if appropriate;
- processing the licensing fee;
- time for reviewing necessary documents and certificates;
- downloading photographs;
- preparing reports on contraventions;
- review by manager or lawyers
- Consultation and review of any consultation responses from third parties;
- carrying out any risk assessment process considered necessary
- a pre-programmed full site inspection;
- a follow – up inspection to check compliance following programmed inspection