

NORTH LINCOLNSHIRE COUNCIL

LICENSING COMMITTEE

SETTING A FEES POLICY FOR LICENSING OF PARK HOME SITES

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To seek approval for a fees policy for licensing of Park Home Sites.

2. BACKGROUND INFORMATION

- 2.1 The Caravan Site and Control of Development Act 1960 (CSCDA60) introduced a licensing system to regulate the establishment and operation of caravan sites.
- 2.2 In 2014, The Mobile Homes Act 2013 (MHA13) came into force. The changes introduced by the MHA13 include the ability to charge fees for all the licensing functions related to Park Home or residential sites.
- 2.3 Within North Lincolnshire, we have seven park home sites with over 500 pitches in total. Each has a site licence with conditions attached.
- 2.4 At the March Licensing Committee, there was agreement in principle given to establishing a licensing and fees policy for park home sites.
- 2.5 The draft policy is attached at Appendix 1.
- 2.6 A meeting with the site owners was held on the 3 May 2017 to discuss the draft policy. Agreement was reached for the introduction of a licensing and fees policy.

3. OPTIONS FOR CONSIDERATION

- 3.1 Option one – Approve the draft policy.
- 3.2 Option two – Do not approve the draft policy.

4. ANALYSIS OF OPTIONS

- 4.1 Option one – this is the preferred option. The site owners have been consulted and we have amended the policy in line with their comments. We have also agreed with them to continue to give them support through the site owners' forum that we have established.
- 4.2 Option two – this option would mean that we would be unable to charge for the functions related to licensing of park home sites. The charge levied will support the licensing regime and the provision of this service.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 Financial – by charging for these functions, we will be able to recover our reasonable costs for undertaking this work.
- 5.1 Staff resource – licensing of these sites and in particular the current annual compliance inspection is completed within existing staff resource. Charging a fee for these functions will help support the informal advice and assistance that we provide to residents and owners.
- 5.2 IT – the current system is adequate – we have no additional needs.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

- 6.1 No potential impacts identified.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

- 7.1 The draft policy has been circulated to all site owners and a meeting was held on the 3 May to discuss the proposals. The site owners were not opposed to the policy and the decision to charge. They did comment on the policy and as a consequence we have amended “pitch” to “home or unit” in relation to the fee for the annual site inspection or compliance visit.

8. RECOMMENDATIONS

- 8.1 That the licensing committee agree the draft fees policy, its publication and the charging of park home sites for all aspects of licensing, including the annual inspection and compliance visit.

- 8.2 That all decisions in the future related to the setting of the fees for licensing, including the fee structure, calculation and exemptions are delegated to the Director for Operations.

DIRECTOR OF OPERATIONS

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Background Papers used in the preparation of this report:-

The Mobile Homes Act 2013 – A guide for Local Authorities on setting site licensing fees.

Draft Park Homes Licensing and Fee Policy

Introduction

The Caravan Site and Control of Development Act 1960 (CSCDA60) introduced a licensing system to regulate the establishment and operation of caravan sites. This Act has remained unchanged for over 50 years. Whilst there are some exemptions to the requirement to be licensed, generally once planning permission is granted to establish a caravan site, a licence must be granted. The licence has conditions attached to it. There are generally three types of caravan site covered by the Act, namely:-

- Residential Park (Mobile) Home,
- Static Holiday,
- Holiday/Touring,

The Mobile Homes Act 2013 (MHA13) was introduced in order to provide greater protection to occupiers of residential park homes. The Act introduces some important changes to the buying, selling or gifting of park home and the pitch fee review process. Residential park homes sites are often occupied by retired or older households and as a consequence, they are more vulnerable to poor management practices. By introducing the new Act, the Government has tried to address a number of these issues and, as a consequence, there is an expectation that Councils' will inspect their sites at least annually and monitor more closely the activities on site, taking enforcement action when necessary.

The changes introduced by the MHA13 include the charging of fees for the licensing of a certain type of site, a new compliance notice where a site owner is failing to meet site conditions and the publishing of site rules.

The changes only apply to "relevant protected sites" and the definition of a relevant protected site can be found in Section 5A (5) and (6) of the CSCDA60 (as amended) and via guidance issued by the Department of Communities and Local Government (DCLG) entitled "Park Homes: Site Licensing, Definition of relevant protected sites" (January 2014). The guidance provides examples of the type of sites included.

The sections of the MHA13 relevant to licensing and enforcement come into force on 1 April 2014. A "Relevant Protected Site" is defined 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 are more commonly known as residential or park home sites.

The other types of caravan sites are still subject to licensing but fees are not chargeable and the other new elements such as compliance notices are also not applicable.

Under the new Act, fees may be charged for:-

- Applications to grant a new licence
- Applications to transfer or amend an existing licence
- Annual licence fees for administering and monitoring existing site licences

This policy details the fees to be charged for all these licensing functions and the fee levels have been calculated based on average time and costs involved in undertaking the activities involved. The fee rates as set out in this report relate to the financial year 2017/2018. The invoices will be issued on the 1 September of each financial year.

Appendix A to this policy lists the things that the Council can take in to account when fee setting.

Application for a new site license

All sites require a site licence to operate (subject to some exemptions in the CSCDA60). Failure to apply for a site license is an offence under the CSCDA60 and the Council may only issue a licence for a site with the valid and correct planning permission. Any application made before planning permission has been granted, must be processed within 6 weeks of the planning permission being obtained and where the application is made after planning permission is granted, it must be processed within 2 months.

Based on the factors contained in Appendix A, the Council has determine that the fee for processing a new site licence is **£200 fixed cost plus £4.30 per pitch** to reflect the variation in the cost of the processing of the application according to the size of the site.

An illustration of this cost as applicable to a site with 100 pitches would be £630 (£100 fixed fee and £4.30 x 100)

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.

Similarly, where a site owner requests an amendment to the site licence, the Council can charge a fee for this function.

Applications can be made by licence holders to vary or cancel conditions, the fee is payable at the application stage.

If the Council deem it necessary to alter conditions, there will be no fee payable.

The fee for an application for transfer or amendment of up to five site license conditions is £150.

Where significant amendments to the site licence conditions (more than five) are requested, this is likely to involve a site visit and lengthier administration and therefore the fee payable will increase to £280

Annual Fees 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 fees will be due from the 1 September 2017 and annually thereafter.

The annual fee covers the cost 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 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.

The DCLG guidance 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 Council carrying out its annual licensing function for all sites, divided by the total number of units over all 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 1 has been adopted as it is considered the fairest and most transparent of the options to both residents and site owners and therefore using that methodology, the fee has been calculated as **£100 fixed cost for administration plus £4.30 per home or unit** and is calculated on the total estimated cost to the council of carrying out its annual licensing function for all park home sites in the borough.

Charges for this first year (2017/2018) have been based on average estimates for the time taken to inspect, complete the administration etc. Time recording will be completed for all elements of the new site licensing regime and fees assessed each year to determine accuracy as part of the Council's annual fees and charges setting process.

Conditions

The Council are currently considering a review of the existing licence conditions as they are considered to be out-dated and in some cases unenforceable. That review will consider upgrading the licence conditions to meet the latest (2008) model standards for Park Home sites.

Sites exempt from annual licensing fees

- Sites that are not relevant protected sites,
- Sites with 3 units or less
- Sites for the site owner and their family (but does not include sites that are run for financial gain)

Charging Arrangements

For the purpose of this policy the period covered by the annual fee will be 1 April to 31 March each financial year. The fee will be charged to the site owner/licence holder and invoices will be sent at the start of September with payment due within 30 days.

Guidance given from the Lease-holder Advisory Service suggests that after 2014/2015 (which was the first year a fee could be charged for licensing), a site owner is no longer able to pass on the cost of the annual fee to their residents via the pitch fee (the annual fee paid to the site owner by the site resident for renting the land that their home sits on).

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.

Where an amended licence is issued part way through the year (which would include either additional units or a reduction), the change in annual fee will be calculated on a pro-rata basis for the remainder of the year and the following years fee will be adjusted accordingly to take into account the increase or decrease in fee payable.

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.

Enforcement Costs

Where there has been a breach or failure to comply with a condition or conditions of the site licence, the Council **may** serve a compliance notice. We may also choose to charge for the service of the notice and the costs involved in serving such a notice, such as the time taken to visit the site and assess the breach or breaches, the time taken in deciding to serve the notice and the preparation of the notice. Charges will be based on an hourly rate in addition to any other costs incurred.

The hourly rate for enforcement action = £46.14.

Charges for enforcement action cannot be passed on to the residents via the pitch fee.

If all or part of the compliance notice remains outstanding, the licence holder commits an offence and the Council may consider taking further legal action to ensure compliance. In such circumstances, the Council would also be seeking to recover the costs from having to take such action.

If the prosecution is successful, the Council would then have the power to carry out the works in default in place of the licence holder.

Fees for depositing site rules

The site rules are different to the licence conditions imposed by the Council. They are made by the site owner to ensure acceptable standards are maintained which will be of benefit to the residents or promote community cohesion on site. The MHA13 has amended the way that site rules are agreed between site owner and residents. **In addition, the Council must keep an up to date register of site rules pertaining to relevant protected sites and the register must be published on line.**

Before publishing the site rules, the Council must be satisfied that the rules have been made in accordance with the statutory procedure. A fee can be charged for this function but has so far not been levied.

Going forward, the fee for this function will be £50.

Publishing and revising the fee policy

This fee policy will be published on the North Lincolnshire web site at www.northlincs.gov.uk.

The fees have been determined based on experience of dealing with site licensing and in the case of those elements that are new, eg depositing site rules, estimates have been made to the cost of providing these elements, in particular the administration of doing so.

In the future, records of time spent will be kept on all elements of site licensing and used to reassess the level of fees in 2018/19

This policy will be revised in April 2018.

Administration

Applications for grant or transfer of a licence

It is recommended that a local authority take into account the following matters on which costs are incurred (or likely to be incurred) (by whichever department, including costs incurred by contracting out) when determining its fee policy for consideration of applications for the grant or transfer of a site licence.

- ☐ Initial enquiries;
- ☐ letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the licensing process;
- ☐ sending out forms;
- ☐ updating hard files/ computer systems;
- ☐ updating the EU Directive website if appropriate;
- ☐ processing the licensing fee;
- ☐ land registry searches;
- ☐ time for reviewing necessary documents and certificates;
- ☐ downloading photographs;
- ☐ preparing reports on contraventions;
- ☐ preparing draft and final licences;
- ☐ review by manager or lawyers; review any consultation responses from third parties;
- ☐ updating public register;
- ☐ carrying out any risk assessment process considered necessary;
- ☐ reviews of decisions or in defending appeals.

In addition a local authority will need to make such inquiries as are necessary in connection with the application, such as those relating to:

- ☐ management and financial standing;
- ☐ outstanding licensing issues and debts; and
- ☐ undertakings.

All time taken in establishing the information required to make an informed decision will be allowed to be included in the licence fee, whether or not the transfer or new licence is allowed.

It is expected that before making an application for a grant or transfer of a licence the applicant will make contact with the local authority to ascertain the likelihood of the success of that application. The authority is expected to give such informal advice, including on likely undertakings that may need to be given, so the applicant can make an informed judgement as to whether to proceed with the application and transfer of legal ownership of the site.

The local authority cannot charge separately for its advice or work in advance of receipt of the application.

However, it can build into its fee structure for such applications the costs (or likely costs) it incurs as a result of such pre- application advice, including where no formal application is subsequently submitted.

Setting annual fees

In setting the level of annual fee in its fee policy the local authority may take into account the following matters on which costs are incurred (by whichever department, including costs incurred by contracting out):

- ☐ letter writing/ telephone calls etc to make appointments and requesting 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; review any consultation responses from third parties;
- ☐ carrying out risk assessment process considered necessary

Site Inspections - Officer time

The following can be considered in terms of officer time in setting fees.

For a first **new licence application** –

- (i) An inspection of the site, at planning stage or on immediate planning approval, to discuss requirements with site owner;
- (ii) A second visit, following the issue of a new licence, to check conditions and occupation of site.

In the case of an **annual licence fee** –

- (i) A pre- programmed full site inspection;
- (ii) A follow – up inspection to check compliance following programmed inspection.

Consider the frequency of inspections/ monitoring visits needed to provide a satisfactory service to carry out the licensing function. Costs relating to monitoring inspections must be fair across the board having consideration for a 'typical' site.

If fees are band based on the risk of a typical size or type of site, the number of visits may be varied. Where a council determines different frequency of inspections for different sites based on risk or size, this must be documented in the fees policy and the banding fee should reflect the amount of additional officer visits and time.

In the case of an **application to amend a licence** a site visit to assess the specifics of the application, any implications for the licence or its conditions and to assess whether undertakings need to be given.

In the case of an **application to transfer a licence** generally, no site visit is required as the application is a desk top exercise only.

Travel time

Travel time to and from the site, including fuel costs can be taken into account. The authority will have to consider whether to

Consultations, meetings, informal advice etc

Time spent consulting the site owner and third parties such as the Planning Services, Fire and Rescue Services and HSE, can be taken into account in setting fees as can time spent on meetings and discussions with site owner, proposed licence holder and their representatives and in giving informal advice and assistance to site owners or their representatives around licensing issues.

