
Meeting: Executive
Date: 18 March 2014
Subject: Central Bedfordshire Council Park Home Site Licensing Fees Policy
Report of: Cllr Carole Hegley, Executive Member for Social Care, Health & Housing
Summary: The report proposes the adoption of the draft Central Bedfordshire Council Park Home Site Licensing Fees Policy.

Advising Officer: Julie Ogley, Director of Social Care, Health & Housing
Contact Officer: Terry Gilbey, Private Sector Housing Area Manager
Public/Exempt: Public
Wards Affected: All
Function of: Executive
Key Decision Yes
Reason for urgency/ exemption from call-in (if appropriate) There are significant implications for the Council should the Park Home Site Licensing Fees Policy not be adopted on 18 March 2014 so that it is in place for 1 April 2014. These implications are set out in the Risk Management section of the Corporate Implications.

CORPORATE IMPLICATIONS

Council Priorities:

The ability for the Council to recover costs associated with the licensing of park home sites through the fees set out in the Park Homes Licensing Fees Policy will enable the Council to monitor conditions on sites more effectively. This will therefore contribute to the Council's priority of promoting health and wellbeing and protecting the vulnerable as most park home residents are older people.

Financial:

1. The Council currently does not recover the costs associated with its park home site licensing function. From 1 April 2014, the Mobile Homes Act 2013 enables the Council to recover relevant costs but only if it has published a fees policy setting out what these fees will be. There are several risks if such a policy is not published by that date, including a risk to revenue.
2. Details on how fees have been calculated can be viewed in Appendix A of the proposed fees policy.

Legal:

3. Section 3 (2A) of the Caravan Sites and Control of Development Act 1960 (the Amended Act) as amended by the Mobile Homes Act 2013 (the 2013 Act) allows Local Authorities to charge a fee for applications for park home site licenses.
4. Section 5A (1) of the Amended Act allows local authorities to charge an annual fee.
5. Section 8 (1B) of the Amended Act allows local authorities to charge a fee for applications to amend conditions on an existing site licence.
6. Section 10 (1A) of the Amended Act allows local authorities to charge a fee for the transfer of a site licence.
7. However, Section 10A (2) states that before charging a fee under the above sections the local authority must prepare and publish a fees policy.

Risk Management:

8. The key risks of the Council not having an approved fees policy in place by 1 April 2014 are:
 - Failure to realise potential income streams.
 - Failure to comply with legislation by not publishing a fees policy in advance of levying charges.
 - Reduced ability/resources to monitor sites more effectively and thus contribute to delivering the Council's priority of promoting health and wellbeing and protecting the vulnerable.
 - Reputational risk to the Council, as set out below.
9. The Mobile Homes Act 1983 as amended by the 2013 Act allows park home site owners to incorporate the increased cost of managing the site as a result of new legislation (i.e. annual licensing fees) only at the next pitch fee review immediately after the legislation comes into force (in this case, 1 April 2014). As pitch fee review dates are set in stone, site owners will be reliant on the local authority to have a published fee policy in place before the first pitch review date after 1 April 2014 occurs in order to be able incorporate these costs. This is their only opportunity to recover these costs from residents as the costs cannot be included in subsequent pitch fee reviews. Therefore, failure to have a published fees policy in place could leave the Council open to claims for compensation from aggrieved site owners to offset the annual licensing fees.

Staffing (including Trades Unions):

10. Not Applicable.

Equalities/Human Rights:

11. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
12. Residents on park home sites tend to be older persons. As site owners are able to pass on the cost of the annual fees proposed in the fees policy to residents through increased pitch fees, the introduction of annual fees may have a financial impact on this client group. Gypsies and Travellers also reside on park home sites and whilst many are owner occupiers on single pitch sites (which the proposed policy seeks to exempt from annual fees), some reside on multiple pitch sites and therefore may be affected. However, the ability to charge annual fees enables the Council to monitor conditions on park home sites more effectively which will be to the advantage of the residents.
13. An Equalities Impact Assessment (EIA) was carried out in November 2013. The EIA looked at how the proposed policy would support Central Bedfordshire Council's legal duties as follows.
14. The implementation of the fees policy supports the Council's legal duty to eliminate unlawful discrimination harassment and victimisation and other conduct prohibited by the Act by ensuring that there is appropriate resource to deliver park home licensing services. This includes dealing with the proposed Fit and Proper Persons applications (should they become a requirement) where the Council will carry out checks to ensure that the site owner is an appropriate person to hold a license. This will reduce the risk of residents being subjected to harassment and victimisation by an unfit site owner.
15. The implementation of the fees policy supports the Council's legal duty to advance equality of opportunity between people who share a protected characteristic and people who do not share it by increasing the frequency of inspections to ensure that those most vulnerable to the impact of licence breaches are better protected. Sharing the cost of the licensing services for non-exempt sites through annual fees on a per pitch basis is a fair method of funding the service. As site owners are likely to pass on the cost of annual fees to residents through increased pitch fees, those residents who are most vulnerable due to living on non-compliant sites will not be required to pay more for an increased frequency of inspections based on risk or re-inspections due to licence breaches.
16. The implementation of the fees policy supports the Council's legal duty to foster good relations between people who share a protected characteristic and people who do not share it. Site licence conditions ensure that the park home site is a safe environment, minimising fire and other risks which could affect the wellbeing of residents. Dealing with breaches more frequently will help to foster and maintain good relations between residents on the sites.

17. Engagement events were held for site owners and residents on 30 September 2013 and 22 January 2014 respectively. These engagement events set out to explain the changes brought about by the Mobile Homes Act 2013, to gather the views of stakeholders on what an overarching park homes strategy should contain, and to discuss the proposed fees.
18. A formal consultation on the fees policy was carried out between 9 December 2013 and 20 January 2014 with additional feedback from the engagement event on 22 January 2014 considered. Consultation letters were sent to 83 site owners and 1,119 residents and 25 responses were received.
19. A summary of the outcome of the consultation is as follows:
 - a. 92% agree that conditions on Park Homes Sites need to be effectively monitored / managed.
 - b. 80% agree that annual fee recovery by the Council should be cost effective.
 - c. 82% support the proposal to exempt single pitch sites from licensing annual fees in order to make fee recovery by the Council cost effective.
 - d. 64% support the proposed Initial Licence Fee of £53.32 per pitch enable the Council to recover costs.
 - e. 56% support the proposed Transfer or Standard Amendment Fee of £249.88 per site/application.
 - f. 56% support the proposed Site Expansion Amendment Fee of £27.68 per pitch.
 - g. 48% support the proposed Annual Fee of £12.38 per pitch to enable effective monitoring by the Council. 44% do not support this and 8% do not know whether they support this proposal. The main reasons given for not supporting it were that sites were already being inspected (albeit at a reduced frequency) and that residents felt that the service should be funded by Council Tax.
 - h. 72% support the proposed charge for serving enforcement notices, which mirrors the charge for Housing Act enforcement notices, £208.10.
 - i. 64% support an administration fee of 20% being applied by the Council when recovering the cost of works the Council undertake in default.

There was a general fear from residents that costs would be passed onto them by site owners. However, legislation only allows the annual fees to be passed on.

20. A significant number of responses highlighted concerns that residents had about being unable to afford pitch fees should owners decide to pass on the annual fees to them through increased pitch fees. As a consequence, the calculation of annual fees was revisited and a minor component removed from the calculation to completely remove any costs associated with re-inspection due to poor management from the calculation. All such re-inspection costs would therefore be recovered when fees for subsequent years are adjusted to take into consideration the surplus or deficit of the licensing annual fee account. Any increase in fees that this might lead to could not be passed on by site owners to residents. The adjusted fees were presented in the version of the fees policy that was taken to the Social Care, Health and Housing Overview and Scrutiny Committee (SCHH OSC) on 27 January 2014.

21. Consultation responses also highlighted concerns that it was not clear whether the per pitch fee for site expansion amendment related to the number of new pitches or the total number of pitches on a site undergoing expansion. They also highlighted concerns that the fees might lead to a decline of the park home site industry in the area if fees were too high or unfair. As a consequence of this feedback the calculation of the site expansion fee was revised so that it comprised of the standard amendment fee plus a fee per additional pitch to cover the cost of inspecting the new pitches. Unfortunately there was insufficient time to include this much clearer and fairer fee within the version of the fees policy that was taken to the SCHH OSC on 27 January 2014 but it has been included within the version being presented to Executive on 18 March 2014.

Public Health:

22. Park home site licence conditions relate to many aspects that would have an impact on the health and wellbeing of residents. However, the most significant of these are those that relate to health and safety issues such as fire safety. The ability to recover the cost of its licensing function through fees would enable the Council to monitor conditions on sites more effectively and thus protect the health and wellbeing of residents.

Community Safety:

23. Not applicable.

Sustainability:

24. Not applicable.

Procurement:

25. Not applicable.

Overview and Scrutiny:

26. The fees policy amended as detailed in the Equalities/Human Rights section above was taken to the Social Care, Health and Housing Overview and Scrutiny Committee (SCHH OSC) on 27 January 2014. The recommendations from the meeting were that the Committee endorsed the Park Home Site Licensing Fees Policy and that a section be incorporated within the overarching Park Homes Strategy planned for later in the year to ensure assistance to vulnerable residents be available.

RECOMMENDATION:

The Executive is asked to approve the draft Central Bedfordshire Council Park Home Site Licensing Fees Policy.

<i>Reason for Recommendation:</i>	So that the approved Park Home Site Licensing Fees Policy can be published by 1 April 2014 to enable the Council to effectively monitor conditions on sites and recover the costs associated with Park Home Site Licensing at the earliest opportunity. This would also enable site owners to incorporate the annual fee costs within pitch fees at the first pitch fee review date after the legislation comes into force on 1 April 2014 and avoid the reputational and financial impact outlined in the Risk Management section above.
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Executive Summary

27. The Mobile Homes Act 2013 was introduced in order to provide greater protection to occupiers of residential caravans and mobile homes through changes to several pieces of existing legislation. One of the changes introduced was the ability, from 1 April 2014, for Local Authorities to charge site owners a fee for applying for a site licence, for amendments or transfers of existing licences, and for annual fees. The ability to recover the cost of its licensing function through fees would enable Central Bedfordshire Council to monitor conditions on sites more effectively.
28. There is a legal requirement for the Council to publish park home site licensing fees that it intends to charge within a fees policy. The Central Bedfordshire Council Park Home Site Licensing Fees Policy was therefore drafted with the intention of applying the charges from 1 April 2014.
29. The fees set out in the policy are as follows:
 - a. Annual Fee = £11.62 per pitch (single pitch sites exempt)
 - b. Initial Licence Fee = £53.61 per pitch
 - c. Transfer or Standard Amendment Fee = £249.88 per site/application
 - d. Site Expansion Amendment Fee = Standard Amendment Fee (£249.88) plus £8.70 per additional pitch
 - e. Fee for Depositing Site Rules with the Council = £30.91
 - f. Fee for Fit and Proper Persons Register Applications = £105.75
 - g. Charge for Enforcement Notices = £208.10 (as per existing Housing Act charge)
 - h. Administration Fee for Works in Default = 20% (as per existing Housing Act fee)
30. The Social Care, Health and Housing Overview and Scrutiny Committee endorsed the fees policy that was presented to them on 27 January 2014.

Background Information

31. The Council administers site licenses for 82 Park Home sites (plus two touring sites). These sites range in size from the 44 single pitch sites to the largest site which contains 175 pitches. The total number of pitches on park homes sites in Central Bedfordshire is approximately 1,200. The Council monitors sites to ensure that site licence conditions are being adhered to. Licence conditions cover a wide range of issues including the following:
 - a. Type and condition of caravans/mobile homes.
 - b. Fire fighting equipment, fire points and emergency telephones.
 - c. Fire hazards (including separation zones around units).
 - d. Safety and maintenance of electrical installations.
 - e. Maintenance and safety of roads and footpaths.
 - f. Hard standings to caravans/mobile homes.
 - g. Water supply.
 - h. Drainage, sanitation and washing facilities.
 - i. Car parking and recreational areas.
 - j. Storage of liquefied petroleum gas.

32. Usually, residents are older people, moving to park homes as a retirement choice, to live with residents of similar age in generally more rural locations. Residents own their home but pay a pitch fee to the park owner and have to abide by park rules, which should be consistent with site licence conditions. Gypsy and Traveller sites are quite different in that they are often home to families and not just older persons. Whilst there are a few multiple pitch sites the majority of them are “owner occupied” single pitch sites meaning that the resident will own the land as well as the home on that land.

33. The Department of Communities and Local Government (DCLG) stated in the Impact Assessment of their consultation “A Better Deal for Mobile Home Owners - Changes to the Local Authority Site Licensing Regime” (published November 2012) that the existing legislation did not allow local authorities to charge fees for issuing and monitoring site licenses, or taking enforcement action if conditions were not met. They added that in practice, this severely limited local authorities’ resources to provide effective scrutiny of the sector.

34. As a consequence, the Mobile Homes Act 2013 (The 2013 Act) was introduced (receiving royal assent on 26 March 2013). This Act amended several pieces of existing legislation. One of the changes introduced was the ability, from 1 April 2014, for Local Authorities to charge site owners a fee for applying for a site licence, for amendments or transfers of existing licences, and for annual fees. The ability to recover the cost of its licensing function through fees would enable Central Bedfordshire Council to monitor conditions on sites more effectively and thus contribute to the Council’s priority of promoting health and wellbeing and protecting the vulnerable as many of the residents of park home sites could be considered to fall within the definition of vulnerable.

Licensing Fees

35. Licensing fees have been determined using templates that indicate a time for the individual steps in each process. As annual fees will apply to each non-exempt site every year these are the most likely to come under scrutiny and as a consequence Central Bedfordshire Council has been working closely with other members of the DCLG Working Group to ensure that the methodology is appropriate.
36. Annual fees were determined by using the aforementioned templates and officer's hourly rates to determine the total cost of providing the service to all non-exempted sites. This cost was then divided by the total number of pitches on these sites to give a per pitch fee. The annual fee for a site will therefore be dependant on how many pitches it contains. When annual fees are fixed for subsequent years any surplus or deficit in the account will be considered to ensure that fees reflect the true costs.
37. Single pitch sites will be exempted from annual fees as it will not be cost effective to collect the very small fees that would be associated with such sites. However, other fees covered by the policy will apply.
38. Fees for applying for a site licence and for amendments or transfers of existing licences were determined in a similar way, although as standard amendments and transfers do not require inspections a simple per site figure that would apply to all sites regardless of size was determined.
39. The fees proposed in the fees policy are as follows:
 - a. Annual Fee = £11.62 per pitch
 - b. Initial Licence Fee = £53.61 per pitch
 - c. Transfer or Standard Amendment Fee = £249.88 per site/application
 - d. Site Expansion Amendment Fee* = Standard Amendment Fee (£249.88) plus £8.70 per additional pitch

*The site expansion amendment fee that was presented to SCHH OSC on 27 January 2014 was £27.87 per pitch. However, this was subsequently amended to the current fee comprising of the standard amendment fee plus a per pitch inspection fee for the additional pitches in light of the consultation feedback outlined in the Equalities/ Human Rights section above. This removed any ambiguity and ensured that site owners only paid in relation to the number of additional pitches they were expanding by rather than the total number of plots on the site.

Other Fees and Charges

40. The 2013 Act made provision for regulations to be made to require site owners to deposit site rules with the local authority and for the local authority to publish a register of these site rules. The local authority is able to levy a fee for rules that are deposited. A fee of £30.91 was determined as being appropriate given the amount of time it is likely to take to carry out the associated tasks.

41. This Act also made provision for regulations to be introduced requiring managers of sites to be registered as “Fit and Proper Persons” and for local authorities to publish a register of such persons. Local authorities may levy a fee for Fit and Proper Person applications. Although at the time the proposed policy was drafted there was no indication as to when these regulations may be introduced, it was felt prudent to include a fee within the policy. A fee of £105.75 was determined as being appropriate given the amount of time it is likely to take to carry out the associated tasks.
42. Licensing fees cannot recover costs associated with enforcement as there are separate mechanisms for recovering such costs, including charges for enforcement notices and recovery of costs associated with carrying out works in default. These mirror what is currently in place in respect of Housing Act enforcement, but have been included in the proposed Fees Policy.
43. Further details on how fees have been calculated can be viewed in Appendix A of the proposed Fees Policy.

Conclusion and Next Steps

44. Once the Fees Policy has been adopted the Council will increase monitoring of park home sites and issue site owners with invoices for annual fees.
45. The output from the site owner and resident engagement events previously held will be used to develop a separate overarching Park Homes Strategy during 2014/15. As recommended by SCHH OSC on 27 January 2014 this overarching strategy will include a section to ensure assistance to vulnerable residents is available, and will also incorporate the approved fees policy.

Appendices:

Appendix A – Draft Central Bedfordshire Council Park Home Site Licensing Fees Policy 2014
Appendix B – Draft Fees Policy – Appendix A – Calculation of Fees
Appendix C – Draft Fees Policy – Appendix B – Benchmarking
Appendix D - Draft Fees Policy – Appendix C – Fees and Charges Schedule Entry
Appendix E - Draft Fees Policy – Equalities Impact Assessment
Appendix F - Draft Fees Policy – Response to Formal Consultation

Background Papers: (open to public inspection)

The Mobile Homes Act 2013
The Caravan Sites and Control of Development Act 1960
The Mobile Homes Act 1983
Department of Communities and Local Government “A Better Deal for Mobile Home Owners - Changes to the Local Authority Site Licensing Regime” - Impact Assessment

All of the above are available via <http://www.legislation.gov.uk>