

HAMBLETON DISTRICT COUNCIL

Report To: Cabinet
15 April 2014

Subject: **PARK HOME FEES POLICY**

All Wards
Portfolio Holder for Leisure and Health: Councillor Mrs S Shepherd

1.0 PURPOSE AND BACKGROUND:

- 1.1 The purpose of this report is to present for approval the Park Homes Fees Policy and recommended levels of fees.
- 1.2 The Caravan Sites and Control of Development Act 1960 (CSCDA) required site owners to obtain a site licence from the Local Authority before any land could be used as a caravan site. Certain exemptions to the scope of this requirement were specified. The Authority were not able to refuse an application.
- 1.3 The Mobile Homes Act 2013 was enacted on 26th March 2013 and amended the CSCDA to enable Local Authorities to recover the cost of licensing “relevant protected sites”. These are permanent residential sites and exclude sites used for holiday caravans and those where year-round occupation is prohibited.
- 1.4 Before any licensing fees can be charged, or fees charged for other newly introduced powers and duties, a Fees Policy must be published. The attached Park Homes Fees Policy has been produced in order to enable charges to be introduced from 1st April 2014 when the relevant sections of the Mobile Homes Act 2013 come into force.
- 1.5 In February 2014 the Department for Communities and Local Government published a Guide for Local Authorities on setting site licensing fees. This Guidance has been taken into account in setting the Fees Policy and the initial licensing fees.
- 1.6 The structure of the fee policy can vary in time. There is no requirement to charge a fee. However, by allocating costs to licences, the cost of the new regulatory system can be recovered from the licence holders, who may be able to pass on some of these costs to homeowners, without affecting the remainder of Council Tax payers.
- 1.7 As there is no relevant record upon which actual costs can be based, experience gathered by licensing other activities has been used to prepare the basis for charging. Records will be kept of costings during 2014/2015 so that future revisions of charges can be based on actual information. Any under or over charging will be balanced over subsequent years.
- 1.8 New powers exist that enable the Council to serve a compliance notice and carry out work in default. The circumstances when these powers may be used will be included in a Caravan Site Enforcement Policy, expected to be ready by summer 2014 after additional legislation and guidance has been published by the DCLG.

- 1.9 The Mobile Homes (Site Rules) (England) Regulations 2014 also empowers the Local Authority, when considering whether to grant a licence or approve a transfer of an existing licence, to have regard to both the proposed management structures that will be put into place by the new licence holder and any outstanding licensing issues with the existing one. Further guidance is expected on this subject from the DCLG.
- 1.10 Over the past year, a detailed survey has been undertaken of existing sites in order to improve our records and in order to consider the adequacy of existing site licences and licence conditions. These will be revised with a consultation exercise involving site owners, home owners and any residents' associations being undertaken in spring 2014. New site licence conditions will be produced by summer 2014. These will be tailored to individual sites during 2014/2015 in order to have regard to any site-specific circumstances. Currently we have records of 19 park home sites containing a total of 188 pitches. 11 of the sites contain 1 permanent resident.
- 1.11 The new powers of the Authority, and duties of site owners, together with the Park Homes Fees Policy, will be brought to the attention of the site owners and home owners during April 2014.
- 1.12 The Council's Environmental Health Service is working closely with Development Control colleagues, the Fire and Rescue Service and other North Yorkshire Local Authorities in order to ensure that future activity is consistent, related to risk and proportionate.

2.0 LINK TO COUNCIL PRIORITIES:

- 2.1 This will contribute towards the Council's priority of financial stability by ensuring the park homes licensing service is mostly self-financing.

3.0 RISK ASSESSMENT:

- 3.1 There are no significant risks associated with this report.

4.0 FINANCIAL IMPLICATIONS:

- 4.1 The fees and charges recommended will enable the park home licensing service and associated administrative and enforcement functions to be largely self-financing at the earliest opportunity. Records will be kept during 2014/2015 will ensure that information is collected on which future charges can be based.

5.0 LEGAL IMPLICATIONS:

- 5.1 The Local Authority has a duty to enforce the provisions of the Caravan Sites and Control of Development Act 1960 as amended by the Mobile Homes Act 2013. This Fees Policy sets out the fees and charges that will be levied while the Council carries out its duties.

6.0 EQUALITY/DIVERSITY ISSUES

- 6.1 There are no equality or diversity issues associated with this report.

7.0 RECOMMENDATION:

- 7.1 That Cabinet approves and recommends to Council that the Park Homes Fees Policy and the associated initial licence fees be approved.

MICK JEWITT

Background papers: Caravan Sites and Control of Development Act 1960
Mobile Homes Act 2013
Mobile Homes (Site Rules)(England) Regulations 2014
The Mobile Homes Act 2013. A Guide for Local Authorities on setting site
licence fees. February 2014.

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CAPITAL PROGRAMME

Capital Scheme :

Description of Project :

Revenue Implications and how they are to be financed :

Community/Business Benefits :

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HAMBLETON DISTRICT COUNCIL

PARK HOMES FEES POLICY

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1. Executive Summary

The Mobile Homes Act 2013 (MHA 2013) was introduced in order to provide greater protection to occupiers of residential caravans and mobile homes. It received royal assent on 26th March 2013 and some parts were implemented on 26th May 2013. The MHA 2013 introduces some important changes to park home site licensing on 1st April 2014 by amending the Caravan Sites and Control of Development Act 1960 (the Amended Act). These changes include the ability 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. In this way, a large proportion of the work related to residential caravan sites will be self-financing.

In order to be able to charge these fees the Council must publish them within a Fees Policy. This Hambleton District Council Park Homes Fees Policy has been produced so that these fees can be introduced during the financial year 2014/15 and be in compliance with guidance published by the Department for Communities and Local Government in February 2014.

Publication of this Fees Policy by 1st April 2014 will enable fee recovery by the Council at the earliest point in time and enable Site Owners to recover these costs should they opt to increase pitch fees at the next pitch fee review date.

The fees associated with applying initially for a new site licence, for transfers/standard amendments of existing licences, site expansion amendments, and for annual fees are to be set initially as follows:-

Initial Licence Fee = £50.00 per pitch

Transfer or Standard Amendment Fee = £250.00 per site/application

Site Expansion Amendment Fee = £25.00 per pitch

Annual Fee = £12.50 per pitch

Sites that are for holiday use only or are only allowed to have units stationed on them at certain times of the year are exempt from licensing fees. The Amended Act enables the Authority to fix different fees or to determine that no fee is required to be paid in certain cases or descriptions of case.

It was felt appropriate for Hambleton District Council to make single pitch sites exempt from annual fees (but not other licensing fees) as these lower risk sites are less onerous to inspect and collecting annual fees in relation to them would not be cost effective.

The MHA 2013 also enables the Authority to serve enforcement notices and to carry out works in default to remedy breaches of site licence conditions from 1st April 2014. The Council would be able to charge fees in relation to this. The fee for Housing Act 2004 enforcement notices is already set at £515 for 2014/15. Due to the similarity of Housing Act and park home site enforcement notices the latter will be set to mirror the former. The administration charge for works in default for park home site enforcement will be set at the same level as that for Housing Act enforcement works in default which is likely to remain at £50 per hour.

The Mobile Homes (Site Rules) (England) Regulations 2014 came into force on 4th February 2014 and set out the timescales (12 months from that date) in which site owners will have the duty to propose new site rules and consult with home owners and any qualifying residents' associations about these rules, which will replace any existing rules. The new rules will need to be deposited with this Authority.

The Authority is able to require a fee when site rules are deposited and will be required to publish an up to date register of site rules. The fee for depositing site rules with the Council will be set at £30.00.

The MHA 2013 also makes provision for regulations to be made requiring site owners to be "Fit and Proper Persons" and for Local Authorities to keep up to date a register of fit and proper persons to manage relevant protected sites. The Authority would be able to charge a fee for fit and proper person register applications. The fee for such applications will be set at £100.00.

2. Introduction

The Caravan Sites and Control of Development Act 1960 (CSCDA 1960) came into force on 29th August 1960. Part one of the Act introduced a licensing system, to be operated by Local Authorities, to regulate the establishment and operation of caravan sites. Section 29 of the Act defines what constitutes a caravan and caravan site, and these are commonly known as park homes and park home sites. The first schedule of the Act sets out cases where a site licence is not required, including:

- Local Authority-owned sites;
- Use incidental to a dwelling house within the same curtilage;
- Sites where a single caravan is stationed on land for not more than two nights and not more than 28 days in any 12 month period;
- Sites where caravans are stationed on land not less than five acres for not more than 28 days and no more than three caravans are stationed at any one time;
- Sites where caravans are solely for seasonal agricultural/forestry workers employed on land owned by the site owner;
- Sites where caravans are solely for workers employed in building or engineering operations on that or adjacent land;

- Sites used by travelling showmen who are members of a relevant organisation;
- Sites occupied by organisations holding a certificate of exemption.

Licences can only be issued to the owners of sites that have obtained valid planning permission. As of February 2014 the Council has records of site licences for 19 Park Home sites with the total number of units across all sites exceeding 188. The extent of work with each site varies according to size, complexity, and whether there are issues arising with residents.

The Department of Communities and Local Government (DCLG) launched a consultation in April 2012 on proposed major reforms to the relevant legislation with the aim of giving greater protection to occupiers of residential caravans and mobile homes. DCLG stated in their Impact Assessment of the 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 licences, or taking enforcement action if conditions were not met. They added that, in practice, this severely limited local authorities’ resources available to provide effective scrutiny of the sector.

As a consequence the Mobile Homes Act 2013 (MHA 2013) was introduced. This received royal assent on 26th March 2013 with some parts implemented on 26th May 2013. The MHA 2013 introduces some important changes to park home site licensing on 1st April 2014 by amending the CSCDA 1960. These changes include the ability to charge site owners a fee for applying for a site licence, for amendments or transfers of existing licences, and for annual fees. Site owners may recover the annual fees through an increase in pitch fees, however, residents will benefit as these fees will help the Authority to increase our activity in an area that has historically been under-monitored. In this way a large proportion of the work in relation to park homes will be self-financing.

Section 10A (2) of the CSCDA 1960 as amended by the MHA 2013 (the Amended Act) requires the Local Authority to publish a Fees Policy before charging fees for the licensing of park home sites. The Hambleton District Council Park Homes Fee Policy (the Fees Policy) has been produced to enable the Council to begin charging these fees on 1st April 2014 and are in compliance with guidance published by the Department for Communities and Local Government in February 2014.

The MHA 2013 also introduced the ability for Local Authorities to serve enforcement notices and to carry out works in default to remedy breaches of site licence conditions from 1st April 2014. The associated fees and charges are therefore also included in the Fees Policy.

The MHA 2013 also introduced changes relating to site rules. The Mobile Homes (Site Rules)(England) Regulations 2014 came into force on 4th February 2014 and set out the timescales (12 months from that date) within which site owners will need to replace existing site rules with new ones that should be deposited with this Authority. The Authority will be able to require a fee when site rules are deposited and will be required to publish an up to date register of site rules. This Fees Policy sets out what this fee will be.

One further aspect of the MHA 2013 where the Authority would be able to require a fee is upon application from a site owner to be included in the Council's register of fit and proper persons for managing relevant protected sites. The MHA 2013 makes provisions for regulations to be made requiring site owners to be "fit and proper persons" and for the Authority to keep such register up to date, and therefore it is prudent to include the relevant fee within the Fees Policy as it is unknown when this legislation may be laid and come into force.

3. Fees for Initial Licence, Transfer/Amendment, Amendments for Site Expansion, and Annual Fees

3.1 Introduction

Subject to the exemptions detailed in the introduction there is a requirement for site owners to ensure that their park home sites are licensed. Failure to do so would be an offence under Section 1(2) of the CSCDA 1960 which can result in a fine not exceeding level 4 (currently £2500) on the standard scale upon summary conviction. Section 3 (2A) of the Amended Act enables the Authority to require a fee in respect to a relevant protected site application.

Section 5A (1) of the Amended Act enables the Authority to require an annual fee to be paid by site owners in respect of relevant protected sites. The Authority may also charge a fee for alterations to licence conditions where these are requested by a site owner or where an application to transfer the licence to another person/ organisation is received (Section 8 (1B) and Section 10 (1A) of the Amended Act, respectively).

When requiring a licence holder to pay an annual fee the Council must inform them of matters to which they have had regard in fixing the fee for the year in question, in particular the extent to which they have had regard to deficits or surpluses in the accounts for the annual fee for previous years. The costs associated with monitoring conditions on sites and dealing with licensing matters informally can be included within annual fees. However, annual fees should not take into account any costs incurred in relation to enforcement activities such as serving compliance notices, emergency action, and works in default as these costs can be recovered by other means. Costs relating to the Authority providing sites for caravans cannot be taken into account in fee determination either.

3.2. Exemptions from paying fees

Sites that are for holiday use only or are only allowed to have units stationed on them at certain times of the year are exempt from licensing fees by virtue of not falling within the definition of "Relevant Protected Sites". These are the only statutory exemptions, however, Section 10A (3) of the Amended Act enables the Authority to fix different fees or to determine that no fee is required to be paid in certain cases or descriptions of case.

It is considered that Hambleton District Council should exempt single pitch sites from annual fees (but not other licensing fees) as there are fewer issues (e.g. spacing, lower risks, tending to be owner occupied) to consider when carrying out routine monitoring compared with multiple pitch sites. In addition, collecting annual fees from

single pitch sites would not be cost effective. These sites would be monitored less frequently than those attracting an annual fee due to the lower risk generally associated with single pitch sites. The costs associated with monitoring single pitch sites would be met through existing budgets.

3.3 Fees for Initial Licence, Transfer/Amendment, Amendments for Site Expansion, and Annual Fees

In addition to setting fees for the initial licence, transfer/amendment of licence, and annual fees, an elevated level of fee is needed for amendments to site licences relating to the expansion of sites by including additional pitches. The reason for the elevated level of fees is that these applications take significantly more time to deal with than a transfer or more straightforward amendment to a site licence, as they involve elements similar to the initial licensing of a site.

The matters to be taken into consideration when determining the grant, transfer and annual licensing of sites will correspond with those included in the DCLG Guidance. In addition time will be costed in relation to the following:-

- travelling time;
- time spent consulting the site owner or licence holder and their representatives and third parties such as Planners, Fire and Rescue Service and Health & Safety Executive;
- where permanent residential pitches are included in a mixed site, only those sites containing more than 1 residential warden;
- time spent investigating complaints and monitoring compliance.

The fees shall be calculated on the basis of an annual base fee in relation to each pitch in the first year followed by a modification in the second and subsequent years based on a risk rating scheme. This would take into account the level of compliance and management of the site.

Annual Fee = £12.50 per pitch.

Amendment fees for expanding sites was calculated by estimating the total cost of for processing such an application for all existing relevant protected sites. This will then divided by the total number of pitches on these sites.

Site Expansion Amendment Fee = £25.00 per pitch.

The fee for the transfer or standard amendment of an existing licence was calculated by estimating the cost of processing such applications. As the cost is not dependant on the number of pitches a single figure per site is set.

Transfer or Standard Amendment Fee = £250.00 per site.

We cannot accurately predict what new site licence applications the Council will receive in the future. It was therefore felt appropriate to assume that new applications would broadly reflect the diversity with regard to pitch numbers of the current relevant protected sites. As a consequence the fee for processing a new application for a site licence will be calculated by estimating the total cost of

processing new applications for all the existing relevant protected sites and then dividing that cost by the total number of pitches on these sites.

Initial Licence Fee = £50.00 per pitch.

When requiring a licence holder to pay an annual fee the Council will inform them of the matters to which they have had regard in fixing the fee for the year in question, in particular the extent to which they have had regard to deficits or surpluses in the account for the annual fee for previous years. In determining the deficits or surpluses in the account any costs relating to the monitoring of conditions on sites, including informal action, will be considered by the Council unless they are specifically excluded by the Amended Act.

3.4 Time when Fees are payable

Section 10A(5) of the Amended Act states that the Fees Policy must include provision about the time at which the annual fee is payable. For the purpose of this policy the period covered by the annual fee will mirror the financial year (1st April to 31st March) and will be paid in advance. Invoices will be sent out during the month of April requiring payment within 30 days. Where a new site is licensed part way through the year an invoice with the same payment terms will be sent shortly after the licence is issued. In the first year, invoices will be sent in May in order to allow time to inform site owners beforehand.

Where a site is expanded part way through the year to include additional units the corresponding higher fee would apply from that point. In such cases an invoice with the same payment terms, covering the difference between the original and increased fee for the remainder of the financial year will be sent shortly after the amended licence has been issued.

4. Charges for Compliance Notices and Works in Default

4.1 Introduction

With effect from 1st April 2014, Section 9A of the Amended Act allows the Authority to serve a compliance notice on a site owner where the site licence conditions are breached. These notices will set out what the site owner needs to do to correct the breaches and the timescales, and the notice will attract a charge. Failure to comply with the notice would be a criminal offence, punishable by a fine at level 5 on the standard scale (currently £5000), and the site licence could be revoked upon a third or subsequent prosecution. Following a successful prosecution for breaching a compliance notice the Authority would be able to serve notice to enter the site and carry out the necessary works (Works in Default).

In addition, Section 9E of the Amended Act allows a notice to be served on site owners enabling the Authority to enter the site and take emergency action where there is an imminent risk of serious harm.

The cost of deciding whether to take action, preparing and serving the various enforcement notices and the actual work itself can be recovered by the Authority

through charges for notices and recharging for works in default. Unpaid charges can be placed as a charge against the site owner's land.

4.2 Charges for Enforcement Notices and Works in Default

As this is a new provision the Authority has little evidence on which to base our charges for park home enforcement notices. However, the processes involved are similar to those involved in the service of Housing Act 2004 enforcement notices. The level of charge for these notices was set out in the Council's Fees and Charges Schedule and stands at £515 for 2014/15 and therefore the charge for park homes enforcement notices will mirror the charge for Housing Act 2004 notices at £515

Similarly, the administration charge that is added to the cost of works when recovering expenses relating to works in default should mirror that set for Housing Act 2004 works in default at £50 per hour. As the Council cannot recharge the VAT element of the cost of work in such cases setting the admin charge any lower than £50 per hour may lead to site owners failing to comply with notices on the basis that the Council's charge would be cheaper than paying for a VAT registered contractor themselves to carry out the works.

5. Fees for Depositing Site Rules

5.1 Introduction

Site rules are different to site licence conditions in that they are neither created nor enforced by Local Authorities. They are a set of rules created by the site owner to which residents have to comply. They may reflect the site licence conditions but will also cover matters unrelated to licensing. The Mobile Homes Act 2013 makes amendments to the Mobile Homes Act 1983 Act in relation to site rules. The Mobile Homes (Site Rules) (England) Regulations 2014 came into force on 4th February 2014 and require existing site rules to be replaced with new site rules to be deposited with the Authority within 12 months from that date.

The Authority will need to satisfy itself that replacement or new rules deposited with them have been made in accordance with the statutory procedure. This prescribes how the site owner shall consult home owners and any residents' association. They will also be required to establish, keep up to date, and publish a register of site rules. In doing so the Authority may levy a fee for the depositing of site rules, or the variation or deletion of site rules.

5.2 Fees for depositing Site Rules

Once an administrative system is in place for holding and publishing site rules it is estimated that it will take approximately 1 hour for officers to undertake their duties in relation to the deposited site rules. Therefore a fee of £30.00 should be charged (based on the appropriate hourly rate) for the depositing of site rules by site owners.

6. Fees for Fit and Proper Persons Register Applications

6.1 Introduction

Section 8 of the MHA 2013 relates to “Fit and Proper Persons” in respect to relevant protected sites. However this requirement does not come into force until the Secretary of State (SoS) issues the necessary statutory instrument, for which no timetable has been published.

Should this come into force it would enable the SoS to issue regulations making it an offence for a site owner to manage a site if the Authority does not consider them to be a fit and proper person. It would also enable the SoS to issue regulations requiring the Local Authority to establish, publish and keep up to date a register of persons they are satisfied are fit and proper persons to manage protected sites in their area, and enable them to charge a fee for applications for inclusion on the register.

6.2 Fees for Fit and Proper Persons Register Applications

These checks are estimated to take 120 minutes and updating and publishing a register would take a further 30 minutes. It is therefore appropriate to set a fee of £100.00 (based on the appropriate hourly rate) for making fit and proper person applications.

7. Revising Fees

7.1 Revising Fees

The fees covered by the Park Homes Fees Policy will be reviewed annually in the Council's Fees and Charges Schedule in the light of actual costs incurred during the first year of operation of the licensing scheme. Should a significant change in fees be required then the Park Homes Fee Policy will be revised and published showing the reasons for any significant change and how any surpluses or deficits have been taken into account..