

9. PROPOSED FEES POLICY FOR 'RELEVANT PROTECTED SITES' UNDER THE MOBILE HOMES ACT 2013

REPORT OF: Lynne Standing, Head of Housing, Environmental Health and Building Control
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Wards Affected: All
Key Decision: No
Report to: Scrutiny Committee for Leisure and Community
26 November 2014

Purpose of Report

1. The purpose of the report is for members to consider the new Mid Sussex District Council's fee policy for relevant protected sites under the Mobile Homes Act 2013.

Recommendations

2. **The Committee is recommended to**
 - I. **Endorse for approval by the Council on 28th January 2015 the proposed fees policy in respect of 'Relevant Protected Sites' set out within Appendix A attached to this report.**
 - II. **Endorse the principle that the Head of Housing, Environmental Health and Building Control, in consultation with the Cabinet Member for Health and Community, should be authorised to make minor amendments to the Policy, once adopted, to reflect changes in legislation or guidance and codes of practice where a full review of the policy is not warranted.**

Background

3. The Caravan Sites and Control of Development Act 1960 (The Act) has been amended by the Mobile Homes Act 2013 (The 2013 Act). The changes introduced by the 2013 Act came into force on 1st April 2014. These include powers for Local Authorities to charge fees for their licensing functions in respect of 'Relevant Protected Sites'.
4. Any licensable caravan site will be deemed to be a Relevant Protected Site unless exempted. A site is exempted if it has planning permission or a site licence for exclusive holiday use or there is a restriction on use as a permanent residential site. As such the legislation does not apply to holiday sites. The aim of the new licensing provisions is to enable us to better protect sites in residential use only.
5. In addition, a site which has consent for holiday use and ancillary residential use, but the residential units are only occupied by the owner or his employees working on the site, does not qualify as a Relevant Protected Site.
6. Traveller sites owned or managed by a Local authority are not covered under The Act.

7. Within the District we have 11 sites that will be covered by the policy. A copy of our registered sites is attached in appendix B, indicating which will be subject to a licence fee.
8. The Act now places a duty on the Council to inspect sites and has provided us with discretion to charge a licence fee.
9. A Local Authorities can charge for :
 - an annual licence fee for administering and monitoring licences
 - a fee for transfer or alteration to the licence.
10. A Local Authority is unable to charge for:
 - enforcement for breach of condition etc., as separate provisions have been made available under the Mobile Homes Act 2013 that allows us to recover enforcement costs.
 - enforcement against unlicensed sites.
11. Under Section 10A of the Act before a Council charges a fee it must first publish a fees policy. In determining the fee we must :
 - act in accordance with our fees policy
 - fix different fees in different cases
 - determine that no fee is required in some cases.
12. The 2013 Act also amends the Mobile Homes Act 1983 (The 1983 Act). As a result, we are required to oversee and validate the park rules formed between park owners and their residents in the manner prescribed under the Mobile Homes (Site Rules) (England) Regulations 2014. The rules are deposited with us and we can charge a levy for this service. The proposed fees policy also addresses this matter.
13. A Sussex Housing Working Group (the Group) was formed to develop a common approach and policy. It is believed that by adhering to a similar fee policy this will ensure that it is fair, transparent and consistent. It is also hoped that this will guard against any major disparity between the fees implemented by neighbouring authorities, as many site owners operate cross-border. The proposed fees policy has also been developed after having regard to the Department for Communities and Local Government (DCLG) guidance document on setting fees published in February 2014.
14. Four fee options were outlined in the DCLG guidance document :
 - Option 1 - Charge nothing
 - Option 2 – Charge a price per unit fee.
 - Option 3 - A fee based on site size bandings.
 - Option 4 - A fee based on or including a risk rating that takes into account the size of a site, the level of compliance on a site and confidence in management.
15. For Mid Sussex District Council option 3 was considered to be the fairest and simplest method available taking into account the nature of our existing sites. The fees will differentiate between smaller and larger sites, as more time is usually spent by officers with regards to inspecting the larger sites. It will also provide a transparent

way for applicants and licence holders to identify fees, without having to rely on complicated equations or risk ratings. It is understood that this was also the most common option considered by our neighbouring authorities.

Proposed fee structure:

16. It is proposed to introduce the policy from the 1st April 2015.
17. The owner of the site pays the fee but can recharge the occupants of the site as part of the pitch fees.
18. Fees are set to recover the cost of administration of the scheme and compliance checks. The proposed fees are set out in Table 1 below.

Table 1

Number of units on site	Band				
	A (2 – 5)	B (6 - 24)	C (25 - 99)	D (100+)	E (Single unit sites and family sites)
New Application for Site Licence	£138.00	£193.00	£226.00	£255.00	£138.00
Transfer of Site Licence	£60.00	£60.00	£60.00	£60.00	£60.00
Amendment of Site Licence	£94.00	£94.00	£94.00	£94.00	£94.00
Annual Fee	£110.00	£131.00	£162.00	£198.00	Exempt
Depositing of park rules with Local Authority	£72.00	£72.00	£72.00	£72.00	N/A

19. It is proposed that we should exempt sites consisting of 1 unit and residential site occupied solely by the owner and their family and not run for financial gain from annual fees. They will only need to pay a new application fee to register. The reason for not charging an annual fee is because:
 - The majority of small sites are family run;
 - Where a holiday site also has permission for residential use, and where that use is only by the owner of the site (including family members) or employees working on the site, then their permanent occupation does not make the site a Relevant Protected Site;
 - The cost of inspection is outweighed by the cost of administering any charges; and
 - It would also lessen expectation amongst the smaller site owners requiring the local authority to undertake annual inspections.
20. The current number of residential sites licensed by Mid Sussex District Council that would qualify as Relevant Protected Sites is detailed in table 2 below.

Table 2

Band	A (2 – 5 units)	B (6 – 24 units)	C (25 – 99 units)	D (100+ units)	E (Single unit sites and family sites)
Number of residential sites that would qualify as a 'Relevant Protected Site'.	4	3	0	1	3

Policy Context

21. Section 10A(2) of the Act requires the fee policy to be published prior to implementation. There is no legal requirement for a consultation exercise to be undertaken with the trade. As a minimum it is proposed to post a copy of our approved fees policy on MSDC's website and write to the respective site owners drawing their attention to it.

Other Options Considered

22. Three other fee options were considered as outlined in the DCLG guidance document:
- Option 1 - Charge nothing. it was important to recover costs associated with this type of work, as it would reduce the burden on the tax payer.
 - Option 2 - A price per unit fee. This could prove a complex and cumbersome method, as sites would be attracting different fees and if they altered the number of units on site then the annual fee would need to be adjusted.
 - Option 4 - A fee based on or including a risk rating that takes into account the size of a site, the level of compliance on a site and confidence in management. It is considered that this would be complex and onerous to administer.

Financial Implications

23. None.

Risk Management Implications

24. None from the recommendations identified in this report.

Equality and Customer Service Implications

25. The aim of the new powers is to protect vulnerable occupants from poor management practices of residential sites. Setting an inspection regime of the sites provides additional health and safety protection for all of the occupants.

Background Papers

[Department for Communities and Local Government \(DCLG\) guidance document on setting fees published in Feb 2014.](#)

[LGA Open for business - LGA guidance on locally set fees.](#)

[DCLG Park Homes: Site Licensing - Definition of relevant protected sites](#)

Mid Sussex District Council's Fees Policy for Relevant Protected Sites under the Mobile Homes Act 2013

Background:

The Caravan Sites and Control of Development Act 1960 (The Act) has been amended by the Mobile Homes Act 2013 (The 2013 Act).

As of 1st April 2014 Local Authorities were able to reclaim costs for administering and monitoring site licences for 'Relevant Protected Sites' only. This will allow for a fee to be levied in relation to the following:

- New Application for Site Licence;
- Transfer of Site Licence;
- Amendment of Site Licence;
- Annual Fee (To cover cost of annual inspection); and
- Depositing of park rules with Local Authority.

The policy relates to the following matters:

- The fee payable in each circumstance;
- The method of apportionment of those costs in setting those fees;
- If an annual fee is payable, when it is to be paid;
- Determine implementation date;
- Other matters that are deemed to be relevant.

This policy has been developed with reference to the following documentation:

- Department for Communities and Local Government (DCLG) guidance document on setting fees published in February 2014.
- LGA Open for business - LGA guidance on locally set fees.
- DCLG Park Homes: Site Licensing - Definition of relevant protected sites.

1. Definition of Relevant Protected Site

Any licensable caravan site will be deemed to be a Relevant Protected Site unless exempted. A site is exempted if it has planning permission or a site licence for exclusive holiday use or there is a restriction on use as a permanent residential site. The aim of the new licensing provisions is to enable Local Authorities to better protect sites in residential use.

In addition, a site which has consent for holiday use and ancillary residential use, but that use is only by the owner or his employees working on the site, then their permanent occupation does not make the site a Relevant Protected Site.

If any doubt arises as to whether a site falls under the definition of a Relevant Protected Site, then the guidance issued by the Department for Communities and Local Government (DCLG) entitled 'Park Homes: Site Licensing - Definition of relevant protected sites' will be referred to by officers in order to clarify the status of the site.

2. Breakdown of Costs

The Mobile Homes Act 2013 enables a Local Authority to reclaim costs for administering and monitoring site licences, but prevents a local authority from:

- Making a profit;
- Recovering enforcement costs for a breach of condition etc, as separate provisions provided for under the Mobile Homes Act 2013; or
- Recovering costs associated with unlicensed sites.

Each application type and annual inspection has been broken down into its constituent parts in order to identify clearly:

- Each task involved in the process;
- The average amount of time taken to complete each task; and
- The job role of the officer completing the task.

3. Fees payable (See appendix 1)

4. Single unit sites and family sites

The following sites are exempt from having to pay an annual fee:

- Site consisting of 1 unit; and
- Site occupied solely by the owner and their family and not run for financial gain (This would include Gypsy Roma & Traveller Sites).

The above sites have been exempted as it is not intended to undertake annual inspections of these sites due to the following reasons:

- The majority of small sites are family run;
- Where a holiday site also has permission for residential use, and where that use is only by the owner of the site (including family members) or employees working on the site, then their permanent occupation does not make the site a Relevant Protected Site;
- The cost of inspection is outweighed by the cost of administering any charges; and
- It will also lessen expectation amongst the smaller site owners requiring the local authority to undertake annual inspections.

Any complaints received will be responded to in accordance with our complaints procedure.

If the applicant claims to qualify for Band E due to being a family site or Gypsy Roma and Traveller Site, then additional information may be requested by officers in order to verify this claim. If there is any doubt as to the legitimacy of the claim then the matter will be referred to the Business Unit Leader of Environmental Health & Building Control to determine what banding the site falls into and therefore the appropriate fee that needs to accompany the application.

5. 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 must ensure that the rules deposited with them have been made in accordance with the statutory procedure. A fee can be charged for this function, which is shown in Appendix 1.

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 the same for either a first deposit or for a subsequent variation or deletion. This is because the process will be very similar for all three types of deposits.

6. Enforcement costs

Where there has been a breach in a site licence condition which comes to the attention of the council we may serve a compliance notice.

The Mobile Homes Act 2013 has amended the Country Sites and The Caravan Sites and Control of Development Act 1960, so that it now 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.

Charges for enforcement costs cannot be passed onto the residents' 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 of the licence holder.

7. Implementation date

The Fees Policy will come into force on the 1st April 2015.

8. Charging arrangements for annual fee

The annual fee will be due on the 31st March 2015 for any existing sites and annually thereafter. Any sites licensed for the first time after the implementation date will attract an annual fee on the anniversary of grant.

9. Publishing and reviewing the fees policy

This fees policy will be published on Mid Sussex District Council's website at www.midsussex.gov.uk. The fee will be reviewed annually.

11. Other matters

Please note that a Local Authority is not required to consider any application made in relation to a Relevant Protected Site unless that application is accompanied by the correct fee. This also applies to fees due when park rules are being deposited with the Local Authority.

If the application is not approved then the applicant is **NOT** entitled to a refund, as the application has been processed.

Appendix 1

FEES

The fees are based upon the number of units located on each site, which are split into four individual bandings.

	Band				
	A (2 – 5)	B (6 - 24)	C (25 - 99)	D (100+)	E (Single unit sites and family sites)
New Application for Site Licence	£138.00	£193.00	£226.00	£255.00	£138.00
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Depositing of park rules with Local Authority	£72.00	£72.00	£72.00	£72.00	N/A

Appendix B

MID SUSSEX DISTRICT COUNCIL - REGISTER OF CARAVAN SITE LICENCES

SITE LICENCE NO	DATE OF ISSUE	SITE LOCATION	LICENCE HOLDER	CARAVAN PITCHES *				LICENCE FEE REQUIRED?
				Residential	Holiday	Touring	Total	
CS/2/04	22.3.63	Colemans Park Shaveswood Lane, Albourne.	Mr. R & Mrs. J.B. Coleman. Colemans Park. Shaves Wood Lane Albourne		6		6	No
CS/4/79	9.2.79	Wykenhurst Shaveswood Lane, Albourne	Mrs Pheasant Wykenhurst Shaves Wood Lane Albourne.	1			1	Yes
CS/6/79	5.9.79	Pitts Head, London Road Warninglid	Pitts Head London Road, Warninglid	4			4	Yes
CS/1/87	6.4.87	Turners Hill Caravan & Mobile Home Park, Turners Hill	Berkeley Leisure Group Ltd. West Coker House West Coker, Yeovil Somerset BA22 9BG	226		30	256	Yes
CS/1/97	10.12.03	1 Highfields Brighton Road Warninglid	Mrs. Buckley	2			2	Yes
CS/1/99	28.4.99	4, Highfields, London Road, Warninglid, West Sussex	Mrs. E. Russell 4 Highfields, London Road, Warninglid.	4			4	Yes

SITE LICENCE NO	DATE OF ISSUE	SITE LOCATION	LICENCE HOLDER	CARAVAN PITCHES *				LICENCE FEE REQUIRED?
				Residential	Holiday	Touring	Total	
CS/1/99	28.4.99	4, Highfields, London Road, Warninglid, West Sussex	Mrs. E. Russell 4 Highfields, London Road, Warninglid.	4			4	Yes
CS/4/00 Amended 06/10/200	28.09.00	Hickstead Park Mobile Home Park, Sayers Common, Hurstpierpoint,	Mr Stephen Webb, 18 Herbert Road, Hextable, Swanley Kent, BR8 7SD	20			20	Yes
CS/1/03	6.11.03	Gravetye Manor Hotel, Vowels Lane West Sussex RH19 4LJ	Gravetye Manor Hotel and Country Club Limited	6			6	Yes
CS/1/08	09.04.08	The Cabins Rowfant House Wallage Lane Rowfant RH10 4NG	Mr. M. Ward Rowfant House Wallage Lane Rowfant RH10 4NG d	2			2	Yes
CS/2/04	Apr 04	Oak Haven Broxmead Lane Bolney	Mrs. June Hicks 11, Lidgate Shot Ratho Midlothian EH28 8TY	1			1	Yes
CS/73/1	21.06.73 Transfer red 02.04.04	Park Haven Broxmead Lane Bolney	Mr. Francis Carr-Pacquay APV Asia 15, Changi Business Park Central 1, Singapore 486057	1			1	Yes