
TITLE: MOBILE HOMES ACT 2013

Committee: LICENSING COMMITTEE

Date: 13th June 2014

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[P16]

1.0 PURPOSE/SUMMARY OF REPORT

1.1 To inform Members of the Park Homes Fees Policy consultation response.

2.0 RECOMMENDATION(S)

2.1 That the Licensing Committee approves the East Cambridgeshire Park Homes Fees Policy.

3.0 BACKGROUND/OPTIONS

Key Issues

3.1 The Licensing Committee on 9th April considered a report, (N259) previously circulated, containing the draft East Cambridgeshire District Council Park Homes Fees Policy, which outlined the legislation with regards to Park Homes and introduced fees for permanent residential Park Homes with 5 or more pitches.

3.2 There are 9 licensed permanent residential caravan sites with 5 or more mobile homes. These homes will now be required to pay an annual fee.

3.3 The Licensing Committee agreed on 9th April that a four week period of public consultation would take place on the draft East Cambridgeshire District Council Park Homes Fees Policy. The consultation document was sent to site owners, residents and park home associations as well as being posted on the Council's website. The Council received three comments regarding the policy. Two were positive and one negative. Responses were provided where necessary and are detailed in Table 1 overleaf.

3.4 Table 1

Positive or Negative Response	Type of Respondent	Details of Response	Action by ECDC
Positive	Housing Professional	The policy 'will protect permanent mobile home residents, many of whom will be of retirement age. Well run mobile home parks can result in savings for the Council and other statutory services, particularly when older residents are able to enjoy safe and well maintained homes'	Acknowledged.
Positive	Councillor	The policy 'was fine.' The Councillor asked how many sites would be affected and whether ECDC was 'content that the fees will be cost neutral for the authority.'	The Councillor was advised that there were 9 sites that were affected and the way in which the costs had been calculated. The Councillor was happy with this response.
Negative	Resident from a Park Home Site, Soham	The resident strongly opposed that the site owner could add the fee to each residents ground rent.	The resident was advised that the point raised was not covered within the policy. The policy was to agree at what level fees should be set for Park owners. It would be at the discretion of the park owner to pass the cost of the fees onto residents. The resident was given

			details of whom to contact if they wished to challenge the legislation (Department of Communities and Local Government.)
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3.5 Any amendments to the draft Policy put forward at the previous Committee of the 9th April were carried out. The wording of ‘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’ was changed to ‘Sites for stationing of a caravan for not more than 2 nights (as long as caravans had not been present for more than 28 days during the previous year.)’

Consultation

3.6 No further consultation is required.

Anticipated Outcomes

3.7 Improvement in the condition of Park Homes throughout East Cambridgeshire due to stronger enforcement powers.

3.8 Increase in revenue to cover average administrative costs.

4.0 ARGUMENTS/CONCLUSIONS

4.1 It is at the Local Authority’s discretion whether it charges for licensing sites however, the introduction of a legislative framework has recognised the need for local authorities to recover some of the costs relating to the monitoring of park home sites to ensure the safety of residents and compliance of licence conditions.

4.2 Response to the consultation indicates that the introduction of East Cambridgeshire District Council Park Homes Fees Policy is supported.

4.3 The cost of the licence fees have been considered to be reasonable.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 The Government’s intention is that the cost of administering the Park Homes licensing regime will be met from fee income. However, as the number of the sites in East Cambridgeshire are quite small, any income from fees is also likely to be minimal and any additional workload is likely to have to be accommodated within existing resources.

5.2 As there are only a few qualifying sites, the potential annual income will be £2060. The application process will therefore need to be low cost with on line payment systems.

5.3 An initial Equality Impact Assessment (INRA) was previously completed.

6.0 APPENDICES

Appendix 1-East Cambridgeshire District Council Park Homes Fees Policy

Appendix 2-Report N259 – Licensing Committee 9th April 2014, together with minutes [see agenda item no. 3]

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
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Mobile Homes Act 2013

Caravan Sites and Control of Development Act 1960

Health and Safety Act 1974,

Regulatory Reform (Fire Safety) Order 2005

Model Standard Conditions Residential Parks 2008

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

East Cambridgeshire District Council Park Home Fees Policy April 2014

Service	Environmental Services		
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Approved by			
Approval date		Review date	September 2015

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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 with some parts implemented on 26th May 2013. The MHA 2013 will introduce some important changes to park home site licensing on 1st April 2014 due to its amendments to Caravan Sites and Control of Development Act 1960 (CSCDA 1960). 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, for annual fees and for site owners depositing site rules with the Local Authority.

In order to be able to charge these fees the Council needs to publish them within a Fees Policy. Publication of this Fees Policy will enable fee recovery by the Council and enable site owners to recover these costs should they opt to increase pitch fees at the next pitch fee review date. This will also enable the Local Authority to comply with its' Statutory duty.

The fees associated with applying for a new site license, for transfers/variations of existing licenses and for annual fees are as follows:

Costs of New Application

1-5 pitches	£200
6-10 pitches	£225
11-20 pitches	£225
21-50 pitches	£240
51-100 pitches	£260
Greater 100 pitches	£260

Annual Fee/Admin and Monitoring of Site Licenses

1-5 pitches	nil
6-10 pitches	£220
11-20 pitches	£220
21-50 pitches	£220
51-100 pitches	£260
Greater 100 pitches	£260

<u>Cost of Laying Site Rules</u>	£25
<u>Cost of Variation/Transfer</u>	£100

Sites that are for **holiday use** only or are only allowed units stationed on them at certain times of the year are **exempt** from licensing fees. These are not considered to be 'Relevant Protected Sites'. These are the only statutory exemptions however, the MHA 2013 enables Local Authorities to fix different fees or to determine that no fee is required to be paid in certain cases.

It is considered appropriate for East Cambridgeshire District Council to make sites where there are **5 or less pitches exempt from annual fees** (but not

other licensing fees). These are lower risk sites that require infrequent inspections and collecting annual fees from them would not be cost effective.

The MHA 2013 also introduced the requirement 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 Council would be able to recover expenses in relation to this.

The Mobile Homes (Site Rules) (England) 2014 came into force on the 4th February 2014. Site owners will need to replace existing site rules with new ones that should be deposited with the Local Authority. Local Authorities 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. **The fee for depositing site rules with the Council will be set at £25.00.**

1. 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 this Act defines what constitutes a caravan and caravan site.

The first schedule of the CSCDA 1960 sets out cases where a site licence is not required, including:

- Local Authority-owned sites
- Use incidental to a dwelling-house and within the same curtilage
- Sites for stationing of a caravan for not more than 2 nights (as long as caravans had not been present for more than 28 days during the previous year.)
- 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.

Housing has changed since the 1960s and many sites now accommodate Mobile/Park Homes. The CSCDA 1960 is still applicable for licensing these sites but the amendment of the CSCDA 1960 with the introduction of the

Mobile Homes Act 2013 will bring the legislation up to date with current housing needs.

The MHA 2013 will introduce some important changes to park home site licensing on 1st April 2014 due to its' amendments to CSCDA 1960. 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, for annual fees and for site owners depositing site rules with the Local Authority.

Section 10A (2) of the CSCDA 1960 as amended, by the MHA 2013 requires a Local Authority to publish a Fees Policy before charging fees for the licensing of park home sites. East Cambridgeshire District Councils' Park Homes Fee Policy (the Fees Policy) has therefore been developed to enable the Council to begin charging these fees on 1st April 2014.

2. Fees for New Licences, Transfer/Variation and Annual Fees

2.1 Overview

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 attract a fine not exceeding level 4 (currently £2500) on the standard scale upon summary conviction.

Section 3 (2A) of the MHA 2013 enables Local Authorities to require a fee in respect to a relevant protected site application.

Section 5A (1) of the MHA 2013 enables Local Authorities to require an annual fee to be paid by site owners in respect of relevant protected sites.

Local Authorities 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 MHA 2013, respectively).

When requiring a licence holder to pay an annual fee, the Council must inform them of matters to which they have had regard to in fixing the fee. 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 Local Authorities providing sites for traveller caravans cannot be taken into account in fee determination either.

2.2. Exemptions from paying fees

Sites that are for **holiday use** only or are only allowed units stationed on them at certain times of the year are exempt from licensing fees. These sites do not fall within the definition of “Relevant Protected Sites”. These are the only statutory exemptions, however, Section 10A (3) of the MHA 2013 enables Local Authorities 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 East Cambridgeshire District Council to make sites that have **5 or less pitches exempt from annual fees** (but not other licensing fees). These sites have fewer issues (e.g. fire separation) to consider when carrying out routine monitoring and are generally of very low risk, compared with larger multiple pitch sites. In many cases these are also occupied by a single family which further reduces risk. Collecting annual fees from these sites was not considered to be cost effective. The intention would be to monitor these sites less frequently than those attracting an annual fee due to the lower risk generally associated with these sites. The costs associated with monitoring sites that have 5 or less pitches would be met through existing budgets.

2.3 Fees for New Licence, Transfer/Variation and Annual Fees

The calculation and methodology relating to the calculation of fees is explained in detail in Appendix- 2 Calculation of Fees. The fees were calculated with reference to ‘The Mobile Homes Act 2013-A Guide for Local Authorities on setting site licensing fees.’ In summary, this involved a costing exercise breaking down the amount of time taken for various steps in the processes and costing different officer levels involved with each stage. The templates were reviewed by officers responsible for licensing park home sites at East Cambridgeshire District Council and are considered comparable with nearby Local Authorities.

The fee structure was devised to be as simple and clear as possible to prevent any future ambiguity.

When requiring a licence holder to pay an annual fee the Council will inform them of the matters to which they have had regard to in fixing the fee. The fee's calculated are considered to be reasonable.

2.4 Time when Fees are payable

Section 10A(5) of the MHA 2013 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 then an invoice with the same payment terms will be sent shortly after the licence is issued, pro rata for this date to the beginning of the next financial year.

Transfer or variation must be paid at application.

3. Enforcement Notices and Works in Default

3.1 Overview

Section 9A of the MHA 2013 allows Local Authorities from 1st April 2014 to serve compliance notices on site owners where site licence conditions are breached. These notices will set out what the site owner needs to do to correct the breaches and the timescales. 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 Local Authorities will be able to serve notice to enter the site and carry out the necessary works (Works in Default).

In addition to this, Section 9E of the MHA 2013 allows a notice to be served on site owners enabling the Local 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 Local Authorities through recharging for works in default.

Unpaid expenses can be placed as a charge against the site owner's land.

3.2 Charges for Works in Default

The administration charge that is added to the cost of works when recovering expenses relating to works in default includes the cost of the work plus officer time once the notice has been breached.

4. Fees for Depositing Site Rules

4.1 Overview

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 which residents have to comply with. They may reflect the site licence conditions but will also cover matters unrelated to licensing.

The Mobile Homes (Site Rules) (England) 2014 came into force on the 4th February 2014. Site owners will need to replace existing site rules with new ones and these should be deposited with the Local Authority by 3rd February 2015. Local Authorities will need to satisfy themselves that replacement or new rules deposited with them have been made in accordance with the statutory procedure. They will also be required to establish, keep up to date, and publish a register of site rules. In doing so a Local Authority may levy a fee for the depositing of site rules, or the variation or deletion of site rules.

4.2 Fees for depositing Site Rules

Once an administrative system is in place for holding and publishing site rules it is estimated that it will cost East Cambridgeshire District Council approximately **£25**.

A fee of **£25** will therefore be charged for depositing site rules or for replacing rules at a later date.

The relevant calculations can be viewed in Appendix 1-**Calculation of Fees**.

Appendix 1

Calculation of Fees

Methodology

The calculation relating to the setting of fees involved a simple costing exercise. The calculation involved cost matrixes that break down the amount of time taken at various stages of the process. The calculations were carried out with reference for 'The Mobile Homes Act 2013-A Guide for Local Authorities' on setting site licence fees.

The fee structure was devised to be fair, transparent and an accurate reflection of reasonable costs for the Council to administer the process.

The calculated costs

A summary of the calculated costs are as follows:-

Costs of New Application

1-5 pitches	£200
6-10 pitches	£225
11-20 pitches	£225
21-50 pitches	£240
51-100 pitches	£260
Greater 100 pitches	£260

Routine Regulation

1-5 pitches	nil
6-10 pitches	£220
11-20 pitches	£220
21-50 pitches	£220
51-100 pitches	£260
Greater 100 pitches	£260

Cost of Laying Site Rules £25

Cost of Variation/Transfer £100

TITLE: MOBILE HOMES ACT 2013

Committee: LICENSING COMMITTEE

Date: 9th April 2014

Author: Julia Atkins, Senior Environmental Health Officer (Domestic)

[N259]

1.0 PURPOSE/SUMMARY OF REPORT

1.1 To implement the Mobile Homes Act 2013 and the Park Homes Fees Policy. The Park Homes Fees Policy allows fees to be charged for Residential Park Home sites within the District.

2.0 RECOMMENDATION(S)

2.1 That the Licensing Committee notes the new statutory local authority powers in the Mobile Homes Act 2013.

2.2 That the terms of reference of the Licensing Committee are amended to include the new functions introduced by the Mobile Homes Act 2013.

2.3 That the Licensing Committee is recommended to agree to a public consultation of 4 weeks on the draft Park Homes Fees Policy and the level of fees. A report will be brought back to Licensing Committee for consideration.

2.4 That the Licensing Committee be recommended that the Head of Environmental Services and relevant Environmental Services Officers are authorised to exercise the functions introduced by the Mobile Homes Act 2013.

3.0 BACKGROUND/OPTIONS

Key Issues

3.1 The Council has a statutory duty under the Caravan Sites and Control of Development Act 1960 to licence caravan sites. This legislation also covers Park and Mobile Homes. At present there is no discretion to issue a licence where planning permission has been granted, but the Council can attach conditions to licences to ensure certain standards relating to the condition of the site, including matters such as layout and services, are maintained.

3.2 There are 9 licensed permanent residential caravan sites with 5 or more mobile homes and 58 licensed smaller residential sites within East Cambridgeshire. The majority of the smaller sites have a single pitch or are

owned generally by a single family. Applications for new site licences are received infrequently.

- 3.3 Whilst there is no statutory duty to regulate site licence conditions, the 1960 Act gives powers to take enforcement action where conditions are not complied with. The Environmental Services Team (Domestic) currently undertakes routine inspections of permanent mobile home sites to check compliance with licence conditions.
- 3.4 The Mobile Homes Act 2013 received Royal Assent on 26th March 2013. This Act aims to improve housing standards, give greater protection to home owners and provide more effective enforcement action by local authorities regarding licence obligations. The Mobile Homes Act 2013 amends the Caravan Sites and Control of Development Act 1960 by introducing (amongst other matters) new provisions in relation to local authority powers with effect from 1st April 2014.

These powers are:

- To charge fees for new residential site licences, licence transfers and variations
 - To charge an annual fee to existing residential site licence holders
 - To refuse a licence (or to refuse to transfer a licence) if necessary
 - To serve and enforce 'compliance notices' and undertake emergency works together with the power to recover expenses and costs relating to works in default.
 - To have a role in the new system for making site rules and for site rules as agreed to be deposited with the local authority. The Act allows a small fee to be charged for depositing these rules and the process of making and depositing site rules with the local authority must be completed by 3rd February 2015.
- 3.5 The 2013 Act has also introduced new laws to address malpractice across the mobile homes sector. For example, it removes opportunities for site operators to block sales and requires them to agree new site rules with park home residents. Many of these provisions are now in force but do not affect local authority powers and duties.

Licence Fees

- 3.6 The 2013 Act requires that where a local authority intends to charge fees, it must prepare and publish a fee policy (Appendix 1), which can be revised from time to time. It is however, at the Local Authority's discretion whether they charge for all or any aspect of site licensing. The proposed fees are as follows:

Costs of New Application

1-5 pitches	£200
6-10 pitches	£225
11-20 pitches	£225
21-50 pitches	£240
51-100 pitches	£260
Greater 100 pitches	£260

Annual inspection fees

1-5 pitches	nil
6-10 pitches	£220
11-20 pitches	£220
21-50 pitches	£220
51-100 pitches	£260
Greater 100 pitches	£260

Cost of depositing Site Rules with the Local Authority

£25

Cost of Variation/Transfer

£100

- 3.7 As there are few sites, the potential income is not significant. At present the annual income as of 2014 will be £2060. The application process will therefore need to be simple and low cost with on line payment systems.

Legislative Position/Legal Implications

- 3.8 If the Council does not adopt a Fees Policy under the Mobile Home Act 2013 which is implemented on the 9th April 2014, the site licence holders will not be able to pass on the fees within the pitch fee they charge their tenants yearly. The site licence holders will be unable to recover costs. This may leave the Council open to legal action.
- 3.9 The Council would not be complying with the law and within the legal time frame.

Anticipated Outcomes

- 3.10 Improvement in the condition of Park Homes throughout East Cambridgeshire due to stronger enforcement powers.

4.0 ARGUMENTS/CONCLUSIONS

- 4.1 The Mobile Homes Act 2013 is legislation and therefore must be implemented by the Council. It is however, at the Local Authority's discretion whether they charge for licensing sites.
- 4.2 The cost of the licence fees have been calculated using a cost matrix, with reference to 'The Mobile Homes Act 2013-A Guide for Local Authorities' on setting site licensing fees (Appendix 2-Calculation of Fees). Only reasonable costs can be included within the calculation and includes, for example, administration and officer time to carry out inspections. Costs for undertaking enforcement cannot be included within the fees.
- 4.3 It was considered unreasonable to charge an annual fee for sites which had 5 or less pitches. These sites generally require little or no enforcement and only light touch monitoring as the majority are occupied by a single family. These are considered to be low risk.
- 4.4 It was not considered reasonable within East Cambridgeshire to calculate per pitch in order to charge a much larger fee for larger sites. The reasoning behind this is that many of the largest sites in the District are the best managed. A large site e.g. of 100 pitches does not necessarily mean that officer time for monitoring the site will be more than a medium sized site e.g. of 20 pitches. There is only a small increase therefore, between sites of differing sizes, which reflects the average officer time to monitor these sites.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

- 5.1 The Government's intention is that the cost of administering the Park Homes licensing regime will be met from fee income. However, as the number of the sites in East Cambridgeshire is quite small, any income from fees is also likely to be minimal and any additional workload is likely to have to be accommodated within existing resources.
- 5.2 As there are only a few qualifying sites, the potential annual income will be £2040. The application process will therefore need to be low cost with on line payment systems.
- 5.3 An initial Equality Impact Assessment (EIA) has been completed. The Policy will have a neutral impact on all groups in the Community.

6.0 APPENDICES

Appendix 1-Park Homes Fees Policy
Appendix 2-Calculation of Fees
Appendix 3-Initial EIA

Background Documents

(List any background documents used in preparation of report not attached as appendices, or state 'none')

Location

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