

ITEM 13 – APPENDIX H

WAVERLEY BOROUGH COUNCIL

EXECUTIVE - 1 APRIL 2014

Title:

INTRODUCTION OF THE MOBILE HOMES ACT 2013

**[Portfolio Holder for Strategic Housing: Cllr Keith Webster]
[Wards Affected: ALL]**

Summary and purpose:

The purpose of this report is to outline the changes to licensing of caravan sites due to the introduction of the Mobile Homes Act 2013 and to propose a licensing policy to include the new enforcement provisions and the introduction of a charge for issuing licences. In addition this report is to propose that the Executive recommend the proposed changes to the Scheme of Delegation to take account of the Council's new powers.

How this report relates to the Council's Corporate Priorities:

This report relates to the Council's Corporate priority on the Environment and contributing towards the health and wellbeing of local communities.

Financial Implications:

The introduction of licence fees will generate income, mainly arising from the annual fee. However an annual fee may introduce a requirement for annual inspections and this may not be possible within existing staff resources. In this case the income generated from the annual fee could be used to cover the cost of an external contractor, perhaps shared with other local authorities. The provision for works in default and emergency action will have cost implications.

Risk Management Implications:

Many of the caravan sites in Waverley have operated for over 40 years without having to pay an annual fee to the Council. Site owners are permitted to pass on the licence fee to home owners in the first year. This legislation may affect our relations with site owners and there may be an unreasonable expectation from all parties on the service we will provide. This legislation also includes gypsy sites, of which there are many in Waverley. It may be difficult to obtain the fees from the site owners and then we will have to consider how we will enforce this legislation. The introduction of more frequent inspections of caravan sites may impact on our capacity to inspect Houses in Multiple Occupation, which should have higher priority due to their higher risk factor.

Legal Implications:

In addition to legal action in the event of non-payment of fees, we need to consider the legal implications of refusal to issue, transfer or vary site licences. There is a risk of compensation claims if we are unable to justify our decision. There is a potential for more enforcement activity as a result of more frequent inspections.

Equalities Implications:

Some of the mobile home sites in Waverley are occupied by gypsies and travellers and this group are expected to be particularly affected by this legislation.

Background:

1. The requirement for and regulation of licensing of caravan sites is set out under the Caravan Sites and Control of Development Act 1960 (CSCDA). The Act prohibits the use of land as a caravan site without a site licence except in cases where an exemption applies under the first schedule.
2. Currently if the owner of a site applies for a licence and has the relevant planning permission, the local authority must issue a licence. The only circumstance in which it can refuse to do so is if the local authority has knowledge that the site owner has had a site licence revoked within the previous three years. This is the case for new site licences and the transfer of existing licences where the site ownership changes hands.
3. There is currently no opportunity for the local authority to charge a fee for any aspect of the caravan site licensing provisions. Inspections of sites are carried out on a risk basis or following a complaint.
4. Site licences are issued with conditions attached to cover such issues as: spacing between units, sheds, porches and other structures, fences and vegetation, fire fighting equipment, electricity and water supplies, drainage etc. Currently the only sanction for failure to comply with site licence conditions is through prosecution in the magistrate's court.
5. On 26th March 2013, the Mobile Homes Bill gained Royal Assent and became the Mobile Homes Act 2013 and introduced amendments to the CSCDA 1960 and the Mobile Homes Act 1983.
6. The amendments to the Mobile Homes Act 1983 were in respect to site rules, pitch fees and removing the requirement for consent of the site owner to the sale or gift of a mobile home, most of which do not affect the Council's work. However, with effect from 25th May 2014, existing site rules will cease and new site rules will need to be deposited with the local authority. Regulations may require the local authority to establish and publish a register of site rules in its area. We can charge a fee for the work involved in holding copies of site rules.
7. In Waverley, there are at least six mobile home sites affected by the charging policy, of which four are park home sites and two are traveller sites.
8. The following changes will take effect on 1st April 2014:

- Licensing fees – we will be able to charge a fee for new licence applications and transfers and variations of site licences. We will also be able to charge an annual fee. Before charging any fees the local authority must prepare and publish a fee policy. Certain exemptions apply.
- Discretion on issue or transfer of licences – subject to regulations being issued by the Secretary of State we may be able to refuse to grant or transfer a site licence.
- Appeals against site licence conditions – in cases where new licence conditions are issued any appeal from the licensee will be heard by the Residential Property Tribunal instead of the magistrate’s court.
- Enforcement of licence conditions – it will now be possible to take action against breaches of site licence conditions by issuing a compliance notice stating the steps to be taken to comply with the licence condition. We can also impose a charge for the cost of preparing and serving the notice (including the cost of obtaining expert advice. Failure by the site owner to take the action stated in the notice is an offence. A person who fails to comply with a compliance notice will be liable on summary conviction to a fine of up to £5,000.
- Power to carry out works - after a successful prosecution the local authority may carry out works in default to address the outstanding issues. If a breach of a licence condition poses an imminent risk of serious harm to the health or safety of any person who is or may be on the land, the local authority may take emergency action to remove the imminent risk. In both cases we can recover the costs of preparing and serving notices, obtaining expert advice and carrying out the works.

Conclusion

The Council will need to update the Scheme of Delegation to include the new enforcement provisions and introduce a fee policy. The proposed fee policy is set out in Annexe 1 and proposed amendments to the Scheme of Delegation set out in Annexe 2.

Recommendation

The Executive is asked to recommend to Council that

1. the proposed fee structure for issuing caravan site licences be adopted; and
2. the proposed amendments to the Scheme of Delegation be agreed and the constitution amended accordingly..

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Caravan Site Licensing Fee Policy Schedule

Scope/Purpose

This schedule sets out the fee structure for the processing of applications for the issue, variation and transfer of caravan site licences and annual fees for administration and monitoring of site licences, together with the fee for holding a register of site rules.

Relevant Legislation

The provision for charging fees was introduced by the Mobile Homes Act 2013. This Act comes into force on 1st April 2014 with respect to amendments to the Caravan Sites and Control of Development Act 1960, which is the principal legislation covering the licensing and control of caravan sites. The Act came into effect on 26th May 2013 with respect to amendments to the Mobile Homes Act 1983, which regulates the agreements between site owners and occupiers.

Review

As this is a new provision, the policy for fee calculation will be reviewed 2 years from implementation to assess any changes that need to be made. However the fee levels will be reviewed each year to take into account the effect of inflation and also any surpluses or deficits incurred on the predicted level of expenditure in the previous year.

Components of the annual fee

The annual fee includes all administrative costs in ensuring that each site complies with the site licence conditions, including inspection and travel costs. It does not include any costs associated with enforcement action as these must be recovered separately under a demand for recovery notice.

Exemptions

The licence fee requirement does not apply to the following sites:

- i. Sites for holiday use only
- ii. Sites where conditions require that there are times of the year when no caravan may be stationed on the land for human habitation
- iii. Sites that are occupied only by the site owner and his/her family or by a person employed by the site owner except where under an agreement to which the Mobile Homes Act 1983 applies.

Payment

The annual fee shall be payable by 30th April each year. Failure to pay the fee may result in the local authority applying to the Residential Property Tribunal (RPT) for an order requiring payment by a specified date. If payment is not received within 3 months of that date, the local authority may apply to the RPT for an order revoking the site licence.

Calculation of licence fees

Based on hourly rates:

Administrative Officer	(A)	£26
Professional Officer	(O)	£51
Manager	(M)	£67

1. Application for new site licence

Action	Time (mins) and officer allocation	Admin Officer Manager Cost
Enquiry received and entered on computer system	15 (A)	£6.50
Make up new file and attach documentation	10 (A)	£4.30
Send out application form with covering letter	10 (A)	£4.30
Enter particulars on application form to record on computer system. Scan and save application form.	15 (A)	£6.50
Check application complete including fee and record correct	40 (O)	£34.00
Carry out land registry search	10 (A)	£4.30
Examine electrical certificate and any other documents submitted with licence for validity	20 (O)	£17.00
Carry out fit and proper person checks with other council services and other local authorities	30 (O)	£25.50
Contact applicant and make appointment to carry out site inspection	10 (O)	£8.50
Travel time	60 (O)	£51.00
Record details of visit on computer record and download photographs	30 (O)	£25.50
Prepare draft site licence and send to applicant with covering letter.	60 (O)	£51.00
Send copy of draft licence to Planning and Fire Dept. with request for comments	10 (O)	£8.50
Discuss any feedback with applicant and Planning on proposed site licence conditions	30 (O)	£25.50
On expiry of consultation period amend site licence if required. Print out ready for signing.	30 (O)	£25.50
Site licence checked and signed by line manager	10 (M)	£11.00
Send out licence with covering letter	10 (A)	£4.30
Scan and save signed copy of site licence to computer record and add hard copy to file	10 (A)	£4.30
Update public register of licensed sites	10 (A)	£4.30
Contact site owner to arrange revisit	10 (O)	£8.50
Travel time	60 (O)	£51.00
Record details of visit on computer worksheet and download photographs	30 (O)	£25.50
Complete risk assessment to determine next routine visit	15 (O)	£12.70
Send letter to site owner notifying them of outcome of visit	30 (O)	£25.50
Base Cost		£445.00
Carry out full site inspection and make note of any works required	1-5 pitches 45 (O) 6-24 pitches 60 (O) 25-99 pitches 90 (O)	£38.00 £51.00 £76.50

Carry out revisit to check on completion of works	1-5 pitches 15 (O) 6-24 pitches 30 (O) 25-99 pitches 60 (O)	£12.70 £25.50 £51.00
Total Cost	1-5 pitches 6-24 pitches 25-99 pitches	£495.70 £521.50 £572.50

2. Application to vary a site licence

Action	Time (mins) and officer allocation	Admin Officer Manager Cost
Enquiry received and entered on computer system	15 (A)	£6.50
Send out application form with covering letter	10 (A)	£4.30
Enter particulars on application form to record on computer system. Scan and save application form.	15 (A)	£6.50
Check application complete including fee and computer record correct	40 (O)	£34.00
Carry out land registry search	10 (A)	£4.30
Contact applicant and make appointment to carry out site inspection	10 (O)	£8.50
Travel time	60 (O)	£51.00
Record details of visit on computer record and download photographs	30 (O)	£25.50
Prepare draft site licence and send to applicant with covering letter.	60 (O)	£51.00
Send copy of draft licence to Planning and Fire Dept. with request for comments	10 (O)	£8.50
Discuss any feedback with applicant and Planning on proposed site licence conditions	30 (O)	£25.50
On expiry of consultation period amend site licence if required. Print out ready for signing.	30 (O)	£25.50
Site licence checked and signed by line manager	10 (M)	£11.00
Send out licence with covering letter	10 (A)	£4.30
Scan and save signed copy of site licence to computer record and add hard copy to file	10 (A)	£4.30
Update public register of licensed sites	10 (A)	£4.30
Base Cost		£275.00
Carry out full site inspection and make note of any works required	1-5 pitches 45 (O) 6-24 pitches 60 (O) 25-99 pitches 90 (O)	£38.00 £51.00 £76.50
Total Cost	1-5 pitches 6-24 pitches 25-99 pitches	£313.00 £326.00 £351.50

3. Application to transfer a site licence

Action	Time (mins) and officer allocation	Admin Officer Manager Cost (£)
Enquiry received and entered on computer system	15 (A)	£6.50

Send out application form with covering letter	10 (A)	£4.30
Enter particulars on application form to record on computer system. Scan and save application form.	15 (A)	£6.50
Check application complete including fee and computer record correct	40 (O)	£34.00
Carry out land registry search	10 (A)	£4.30
Carry out fit and proper person checks with other council services and other local authorities	30 (O)	£25.50
Amend site licence and print out ready for signing.	30 (O)	£25.50
Site licence checked and signed by line manager	10 (M)	£11.00
Send out licence with covering letter	10 (A)	£4.30
Scan and save signed copy of site licence to computer record and add hard copy to file	10 (A)	£4.30
Update public register of licensed sites	10 (A)	£4.30
Total Cost		£130.50

4. Annual fee

Number of pitches	Inspection interval	Time (mins)	Annual fee
1-5 pitches	5 years	300 mins / 5 (O)	£51
6-24 pitches	3 years	360 mins / 3 (O)	£102
25-99 pitches	2 years	480 mins / 2 (O)	£204

5. Deposit of site rules

There will be a charge of £25.50 for the deposit of the site rules with the local authority.

ANNEXE 2

Replace section 154 under the Environmental Health Service scheme with the following five sections:

1. Private Sector Housing Manager to exercise powers to grant, vary, transfer or refuse applications under the Caravan Sites and Control of Development Act 1960.
2. Private Sector Housing Manager to exercise powers to apply to the Residential Property Tribunal for an order to require the licence holder to pay the Council the annual fee and an order to revoke the site licence under the Caravan Sites and Control of Development Act 1960.
3. Environmental Health Officers to exercise powers to issue, serve and enforce compliance notices under Section 9 of the Caravan Sites and Control of Development Act 1960, including the power to carry out works in default and the recovery of expenses in connection with serving the notice and carrying out works in default.
4. Environmental Health Officers to exercise powers to take emergency action under Section 9 of the Caravan Sites and Control of Development Act 1960 and the recovery of expenses from the occupier.
5. The Borough Solicitor, on the recommendation of the Private Sector Housing Manager, is authorised to institute legal proceedings for permitting use of the land as a caravan site without a site licence or failure to comply with a compliance notice under the Caravan Sites and Control of Development Act 1960.