

**11 November 2014**

## **Licensing Committee**

### **Mobile Homes Licensing**

*Report of:* Head of Borough Health, Safety & Localism

*Wards Affected:* All

*This report is:* Public

#### **1. Executive Summary**

- 1.1 The Government has introduced a new scheme for licensing of mobile home sites which more closely aligns the licensing provisions under the Caravan Sites & Control of Development Act 1960 with other local authority licensing regimes in order to improve site conditions and ensure that residents' health and safety is better protected.
- 1.2 Mobile homes used for permanent residential accommodation with full planning permission in the Borough will require an annual licence. The Council will be able to recover the costs of administration and inspection of sites under the new licensing arrangements. This report seeks to establish the licensing arrangements to be implemented for the Borough.

#### **2. Recommendations**

- 2.1 Members agree to implement a scheme for Mobile Homes Licensing under the changes brought in under the Mobile Homes Act 2013 in the Brentwood Borough.**
- 2.2 Officers are authorised to establish and administer such a scheme.**
- 2.3 Members agree to adopt the Fee Policy in Appendix A of the report.**
- 2.4 The Head of Borough Health, Safety and Localism and any officers nominated by him are delegated authority to administer and enforce the powers brought in under the Mobile Homes Act 2013.**

#### **3. Introduction and Background**

- 3.1 The Mobile Homes Act 2013 has been introduced to enable local authorities to monitor residential park home and caravan site licence compliance more effectively to ensure that residents' health and safety is better protected. These changes apply to 'relevant protected sites' as

defined in the legislation and guidance issued by the Department for Communities and Local Government (DCLG). Any licensable caravan site will be a 'relevant protected site' unless it is specifically exempted from being so, e.g. if it is for holiday use or there is a restriction on use as permanent residential.

- 3.2 This report proposes to introduce a licensing scheme for mobile home sites in the Borough, (which will include Gypsy and Traveller sites with permanent planning permission).
- 3.3 Existing sites which are licensed under the Caravan Sites and Control of Development Act 1960 will not need to apply for a new site licence but will be transferred to come under the new provisions brought in by the Mobile Homes Act 2013 at no additional charge.
- 3.4 The Council will be able to charge fees for applications for a site licence and for the administration and monitoring of site licences, which will include annual site inspections. Annual fees will not cover enforcement of breach of conditions, recovery of expenses, serving of legal notices and dealing with sites that do not need licensing.
- 3.5 Where a local authority decides to charge fees these must be published in its Fee Policy document and must be transparent and reasonable. The draft Fee Policy document is attached at Appendix A.
- 3.6 A fee can be charged for:
  - applications to grant a new licence
  - applications to transfer or amend an existing licence
  - annual licence fees for administering and monitoring existing site licences
  - depositing of site rules including first and subsequent deposits as a consequence of variations
  - serving of enforcement notices and recovery of costs incurred
- 3.7 The Council can include all reasonable costs such as administrative costs, site visits, travelling, consultations, meetings etc. when determining their fees. The fee levels in the draft Fee Policy have been calculated based on the estimated time and cost in undertaking the activities involved. A breakdown of how the costs have been estimated is included within the draft Fee Policy document. The actual costs incurred will be identified during 2015/16, which will inform the review process for the Fee Policy.
- 3.8 Where the Council makes a charge they must review the costs of administering the licence scheme to ensure that costs are covered by fees

received; annual fees may be adjusted to take account of any surpluses or deficits – the Council can only pass on to the site owner their costs in carrying out its licensing functions.

- 3.9 Proposed fees are based on a banding system similar to other Essex authorities, based on the number of pitches on each site. The largest site currently in Brentwood falls into Band C (11-50 pitches).
- 3.10 Details of the arrangements for the various fees are contained in the draft Fee Policy document at Appendix A.
- 3.11 The new legislation allows for improved powers for enforcement action in order to improve conditions on sites where standards are not maintained. In Brentwood, as a result of the low number of sites, which are mainly small sites owned by the occupiers, it is not anticipated that enforcement powers will be often used unless alternative informal means of action are ineffective. The Fee Policy includes an hourly rate of £35.79 per hour, which will be used as the basis for charging for enforcement action.

#### **4. Issue, Options and Analysis of Options**

- 4.1 The options available to Members are primarily concerning fees. The Council has discretion on whether to charge fees, and if so, whether fees should be applied to all 'relevant protected sites' in the Borough.
- 4.2 The Council also has discretion on whether to exempt certain categories of site from payment, but will have to justify any such decisions, e.g. based on risk or cost. The Government Guidance on Fees is quoted below:

'Exempting certain types of site

Whilst adopting a Fee Policy a local authority can decide to exempt certain categories of sites from payment. A local authority must however be able to justify any such decisions - which will usually be due to risk and, or cost.

Any exemption must be rational, objective and consistent. The exemptions must be set out in the fee policy. Site categories which are exempted can subsequently be brought within the charging structure by a change to the fee policy.

Importantly too, a local authority should not charge higher fees for non-exempted sites to cover its costs in relation to licensing functions for those sites that are exempted from payment.

A local authority may consider exempting the following types of sites:

- Certain sites based on a minimum size – this may be single unit sites or sites of a size less than a given figure e.g. 3 or 5. The rationale for exempting such sites being that they are low risk, they tend to be family run sites which are not run as a business, they are rarely, if ever, the subject of complaints and the cost of inspection is outweighed by the cost of administering any charges.
- Sites that are not run as a business, again justified as above – this would include family run sites and typical small Gypsy Roma and Traveller sites. However, consideration needs to be given as to how you would quantify/ define 'family site' and the evidence required to show that a site was not a family run site and was instead a business when challenged otherwise. On balance this is considered a problematic category and is not recommended.
- Gypsy Roma and Traveller (GRT) sites – some local authorities currently have little involvement with these sites and some do not even impose conditions. There may be a presumption that administering and recovering charges on these sites would be problematic. Even if no fees are charged the local authority still has a duty to license such sites and has powers of enforcement. There may be an expectation that enforcement action will be taken- in particular in respect of fire safety where the enforcing responsibility usually rests with the local authority and not the fire service under the Fire Safety Order (whereas on traditional residential park home sites the Order is relevant for common parts). Local authorities may consider the most sensible option to assess GRT sites against the same criteria as the traditional sites. So all sites of a minimum size (say less than 5) are exempt from charging, whilst all sites, including GRT sites, above a certain size are included.

In considering any Fee Policy, a local authority has full scope to consider the particular types and sizes of sites and issues on its district, so it can frame its policy accordingly, including exemptions to suit. It can also exempt by way of type of fee payable (i.e. application or annual fees) generally or specifically in relation to categories of sites'.

- 4.3 There are currently approximately 10 sites in the Borough which are currently licensed or are licensable. Of these the majority are small sites

with less than 10 pitches, occupied by Gypsy and Traveller families who have obtained permanent planning permission. Sites without permanent permission or unauthorised sites are **not** considered to be 'relevant protected sites' within the definition of the Act and will not be licensable.

4.4 Options available for Members to consider are:

1. Whether or not to charge for licensing functions under the Act.
2. Whether to charge all sites within the bandings proposed, or to exclude either single pitch sites or smaller sites where less work will be required to administer and inspect under the licensing scheme.
3. Whether to amend the bandings suggested in the draft Fee Policy.
4. Whether to fix different fees in different cases.
5. Whether to determine that no fee is required in some cases, such as low risk sites.

4.5 The implications of not charging for mobile home site licensing will mean that approximately £2000 per annum would not be recovered from annual licence fees. The Council tax payer would therefore be paying for the cost of this service putting additional strain on existing resources through this additional work. There would also be a limited amount of additional income for issuing new site licences where an existing site licence has not been issued previously which would not be recovered. The fees for the various licensing activities calculated on a cost recovery basis are shown in the table below:

	Band A	Band B	Band C	Band D
Number of pitches	1 to 5	6 to 10	11 to 50	51 to 100
<b>Annual Fee</b>	£152.11	£274.51	£355.04	£477.08
<b>New site licence application fee</b>	£316.03	£393.69	£474.22	£566.56
<b>Transfer of site licence fee</b>	£125.27	£134.21	£143.16	£152.11
<b>Amendment of site licence fee</b>	£176.09	£199.71	£217.60	£247.67
<b>Checking &amp; Registering Site Rules</b>	£116.32	£116.32	£116.32	£116.32

4.6 Similar considerations apply to exempting certain sites or bandings from charges. It is recognised however that smaller sites will have a disproportionately higher cost per pitch compared to larger sites; where the site is occupied by a single family this could have a financial impact.

- 4.7 Some of the other authorities in Essex including Chelmsford and Epping have exempted smaller sites from annual site licensing charges (but not from other licensing fees) as a result of the limited Council involvement following issuing a licence and the administrative costs in recovering fees, as indicated in the Government guidance quoted above.
- 4.8 Members may wish to consider whether it is appropriate to exempt smaller sites, with less than 5 pitches, from the requirement to pay an annual licence fee, on the basis that in Brentwood these sites are low risk, generally occupied by single families and are not run as a business. The effect of this exemption would be to reduce potential annual fee income by approximately £1500.

## **5. Reasons for Recommendation**

- 5.1 The Mobile Homes Act 2013 has been implemented to regulate and improve health and safety and site conditions for mobile home occupiers and updates the legislation for residential sites.
- 5.2 It is therefore recommended that Members establish a scheme for Brentwood Borough and that appropriate charges are made for the issue of licences under the scheme.
- 5.3 It is also recommended that charges for the issue of new licences, transfer and amendment of licences and for annual licences are made, in accordance with the banding and fees set out in the draft Fee Policy, in order that appropriate costs of licensing activities are recovered by the Council.

## **6. Consultation**

- 6.1 Consultation documents were prepared and delivered to the relevant sites within Brentwood for the site occupiers. In addition copies were sent to the site owners, to representatives of Gypsy and Traveller groups in the Borough, Party Leaders, Committee Members and Parish Councils and to the Essex Countywide Traveller Unit (ECTU).
- 6.2 Prior to circulation of the consultation, Party Leaders were given the opportunity to suggest changes to its content; none were received.
- 6.3 A summary of the responses received is contained in the table at Appendix 3. The consultation period closed on 31<sup>st</sup> October 2014. The

majority of the respondents were site occupiers, (one site owner) with all in favour of using the banding system incorporated in the draft Fee Policy. There was a consensus that the proposed annual licence fees were fair and that the Council should charge for licensing. There was no overall view whether single pitch sites should pay an annual licence fee but the opinion was that sites of less than 5 pitches should pay annual fees.

## **7. References to Corporate Plan**

### **7.1 Housing, Health & Wellbeing**

7.2 We will support vulnerable homeowners and responsible landlords to improve housing conditions and will compel rogue landlords to improve standards.

## **8. Implications**

### **Financial Implications**

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8.1 The recommended fees have been calculated on a cost recovery basis, and as such could generate additional income of £1938 per annum.

### **Legal Implications**

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8.2 The Council is the licensing authority and as such has powers under the amended provisions of the Caravan Sites and Control of Development Act 1960 which are intended to raise standards in the industry.

8.3 By seeking to introduce the scheme and fees, the Council is discharging its obligations in accordance with the statutory purpose of the Mobile Homes Act 2013 which introduced such amendments.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

8.4 Equality and Diversity

8.5 Many of the residents on mobile home sites are elderly and may be on low income. The majority of the smaller sites in the Borough are occupied

by members of the local Gypsy Roma and Traveller community who have settled in Brentwood and obtained permanent planning permission.

**9. Background Papers** (include their location and identify whether any are exempt or protected by copyright)

9.1 Mobile Homes Act 2013 – new licensing enforcement tools  
Advice for Park Home Site Owners  
Department for Communities and Local Government

9.2 The Mobile Homes Act 2013  
A Guide for Local Authorities on setting site licence fees  
Department for Communities and Local Government

9.3 Park Homes: Site licensing  
Department for Communities and Local Government

**10. Appendices to this report**

Appendix A - Brentwood Borough Council Draft Fee Policy  
Appendix B - Mobile Homes Act 2013 Public Consultation  
Appendix C - Consultation responses

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