

Subject:	Occupation Agreements and Fee Setting for Travellers Sites		
Date of Meeting:	15th March 2016		
Report of:	Acting Executive Director of Environment, Development and Housing		
Contact Officer:	Name:	Rachel Chasseaud	Tel: 291837
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Mobile Homes Act 1983 provides the legal framework for contractual arrangements between mobile home/caravan site owners and occupants. The act has been amended to put in place much stronger protection for the residents of mobile home Sites, which also encompasses permanent traveller sites.
- 1.2 The council's new permanent Traveller's site requires an Occupation Agreement that differs from the Transit Site. The former is a 'protected site' under the terms of the Mobile Homes Act 1983 and the latter is an 'unprotected site'. This report therefore seeks approval for a new occupation agreement for the permanent site (appendix 1) and a revised and updated occupation agreement for the transit site (appendix 3)
- 1.3 The council's Tenancy Strategy 2013 outlines the local policy context that social landlords should have regard to and this is particularly relevant in relation to the Discretionary Succession Policy (appendix 2).
- 1.4 The report also outlines the rationale for pitch fee and service charge setting for both sites.

2. RECOMMENDATIONS:

- 2.1 That Environment Transport and Sustainability Committee approve the:
 - (a) Occupation Agreement for the permanent traveller site
 - (b) Discretionary Succession Policy for the permanent traveller site
 - (c) Occupation Agreement for the transit traveller site
- 2.2 That Environment Transport and Sustainability Committee approve the:
 - (a) Pitch fee and service charges for the permanent traveller site
 - (b) Pitch fee, deposit and service charges for the transit traveller site.

- 2.3 That Environment Transport and Sustainability committee delegates authority to the Executive Director of Environment Transport and Sustainability, in consultation with the Executive Director of Finance, to vary the estimated service charges on the transit site for water and electricity after 6 months to align the charge to actual costs.
- 2.4 That the committee agrees that beyond 2.3 above, the annual pitch fee and service charge review should be part of the council's budget setting process for future years.

3. CONTEXT/ BACKGROUND INFORMATION

Occupation Agreements

- 3.1 Sections 1 and 2 of the Occupation Agreements contain information prescribed in law about the rights of both the owner and the occupier and the implied terms of the contractual arrangements. Section 3 of both agreements contain the express terms which incorporate the site rules to enable effective management of the site.
- 3.2 In the case of the Travellers sites at Horsdean (now known as St Michael's Way at Horsdean) the site rules reflect the fact that the site is located in a Special Protection Zone 1 (SPZ1) and the need for protection of environment and water supply. The rules have been developed with the input and advice of the Environment Agency and involving the new residents so that they understand what is required and why.
- 3.3 Once approved a residents handbook will be developed for all residents of St Michael's Way with an easy read version of the site rules. Signage will be placed on site making the most critical rules very visible (this being a condition of the planning permission issued by South Downs national Park Authority). In addition every resident will have an induction to ensure that they understand the rules and rights and obligations contained in their agreements.

Occupation Agreement Permanent (Protected) Site

- 3.4 The proposed Occupation Agreement for the permanent (protected site) is at appendix 1.
- 3.5 Under the Mobile Homes Act 1983 a permanent mobile home/caravan site has protected status meaning that occupants have exclusive possession of their pitch and associated buildings. They have a right to reside on their pitch unless they terminate the agreement or their occupation agreement is brought to an end via a court order. Section 2 paragraph 4 of the Occupation Agreement for the protected site outlines the conditions in which a court order to end the agreement might be issued; namely a breach of the terms of the terms of the occupation agreement (for example rent arrears or a breach of the site rules) or if a mobile home is having a detrimental effect on the amenity of the site and the occupier fails to carry out repairs.
- 3.6 It should be noted that the occupants of the protected site do have the right to challenge the express terms of the agreement within 6 months of entering into

the agreement via a residential property tribunal. However we have consulted with the new residents of the protected site prior to bringing this report to committee and would not anticipate this likely to occur.

- 3.7 Section 3 paragraph 19 outlines how, in line with the Localism Act 2011 and council's Tenancy Strategy 2013, the partner, spouse or joint occupancy agreement holder residing with the occupant holder at the time of death can succeed to the occupation agreement providing there has been no prior succession. The Traveller Site Discretionary Succession Policy (appendix 2) outlines the circumstances in which a discretionary succession to another member of the household might be agreed. This would be a close family member, who has been residing in the household for at least the preceding 12 months; where there has been no prior succession and where if the family member were to make a homeless application to the Local Authority the council would be likely to have a duty to accommodate them. This closely mirrors the Discretionary Succession Policy for council housing.

Occupation Agreement - Transit (Unprotected) Site

- 3.8 The occupation agreement for the transit (unprotected site) is at appendix 3.
- 3.9 The implied terms of the occupation agreement for the transit site vary from those of the permanent site. Occupants do **not** have exclusive possession of their pitch and are issued with a 7 day licence which can be extended to up to a period of 3 months.
- 3.10 As non excluded occupants on a licence, the licence can be brought to an end more easily than occupation of the protected site. A 28 day notice will bring the licence to occupy the site to an end.
- 3.11 The express terms in section 3 of the occupation agreement are very similar and only vary where there is a difference between exclusive and non-exclusive possession – for example there is no succession possible to a transit pitch; no overnight visitors are permitted on a transit pitch; washing machines are not permitted on a transit pitch. The express terms in relation to protection of the environment and the water supply are identical in both agreements.

Pitch Fees and Service Charges

- 3.12 The proposed Pitch Fee for both sites has been calculated based upon the estimated costs of running the sites
- 3.13 Benchmarking information has also been used to ensure that a reasonable figure has been reached that is likely to be deemed acceptable for housing benefit and rent valuation purposes.
- 3.14 The proposed new pitch fees (excluding service charges) have the potential to bring in a total income of £0.109m per annum to the council, although there will also be extra costs associated with both day to day and future planned maintenance works. Further to this the provision is expected to reduce the numbers and associated costs of unauthorised encampments in the city.

- 3.15 In calculating the running costs of the site, the cost of security guard provision at the site has not been included. This is because the weekly cost across all pitches would be an additional £46 per week which would make the weekly charge unaffordable. These costs have already been budgeted for and have reduced by approximately £0.030m per annum over the past 3 years through changes to working practices. It should be noted that there will be Traveller Liaison Officer presence at the site during office hours and new and improved CCTV on the new sites. It is not usual to have 24 hour security presence on Traveller sites across the country. It is suggested this provision is maintained for the present kept under review with a view to reducing costs further but maintaining adequate levels of security.
- 3.16 It is proposed that in future pitch fees for both sites and service charges will be subject to an annual review through the council's budget setting process.

Pitch fee and Service Charges for the Permanent (Protected) Site

- 3.17 Section 2 paragraph 9 of the Occupation Agreement for the permanent (protected site) sets out under The Mobile Homes Act 1983 that the pitch fee should be reviewed annually and can only be changed in line with the retail prices index unless through consultation, the occupiers agree to a change in the fee or if a court, on application by the owner, determines that a change to the pitch fee is reasonable.
- 3.18 The average pitch fee for the permanent site is proposed to be £86.25 per week. In summary the weekly pitch fee has been determined as follows:

Pitch Fee	Per week (£)
Staff Costs and Overheads	41.81
Repairs and Maintenance	6.14
Contribution to Capital repayment and future maintenance	34.19
Void Cost and Bad Debt provision (5%)	4.11
Total	86.25

- 3.19 The repairs and maintenance costs have been estimated based on the average weekly expenditure on a similar size property in the council's social housing stock.
- 3.20 The pitch fee has been set to recoup the additional capital contributed to the development of the permanent site by the council over and above the central government grant. The figure included in the calculation would repay the full sum over 30 years. However, it will be placed into a reserve for any major works required to the site in the future so that pressure is not placed on the council's general fund in future years.
- 3.21 The fee will vary between pitches depending on the size. The pitches are banded into 4 sizes £80.26 p/week being the lowest charge and £96.30 p/week being the highest charge.

Pitch number	Size	Weekly Pitch Fee (£)
1	M	83.88
2	M	83.88
3	L	89.80
4	L	89.90
5	L	89.90
6	X/L	96.30
7	X/L	96.30
8	S	80.26
9	S	80.26
10	M	83.88
11	S	80.26
12	S	80.26

3.22 It should also be noted that residents will also be renting static mobile homes placed on site from a private firm. Our research has shown that costs to rent a static home suitable for the site vary from £80 per week to £150 per week. This could bring the weekly accommodation costs (excluding service charges) to range from an estimated £160 per week to in the region of £250 per week.

3.23 There will also be a service charge payable by each pitch which relates to actual costs. Where actual costs are not available estimates have been made. The proposed weekly service charges will total £11.43 per pitch and are made up as follows:

Service Charge	Per Week (£)
Grounds Maintenance	1.60
Litter Picking	9.33
Utilities for Communal Building	0.50
Total	11.43

3.24 In addition residents of the permanent site will be liable for council tax, water, electricity and other utilities.

3.25 Residents of the permanent site who are on a low income will be able to apply for Housing Benefit towards their accommodation costs.

3.26 The following table provides the benchmarking information that we have been able to obtain for permanent pitch fees and service charges for other sites in the South of England and also provides a comparator with local rental costs in the city.

Local Authority	Pitch Fee per week (£)	Service Charge per week (£)
Southampton	120 - 150	
West Sussex	50 - 70	
Poole	73	20
Buckinghamshire	69	
Oxfordshire	92	
Surrey	86	22.50
Salisbury	53 - 88	3.40
<p>How this compares with Housing in Brighton and Hove The average rental cost of a studio or one bed council owned bungalow is currently £82 per week.</p> <p>The average rental cost of one bed flat in the private sector in the city is £158.08 per week.</p> <p>The average cost of a 2 bed house in the private sector in the city is £298.61 per week</p>		

Pitch Fee and Service Charges for the Transit (Unprotected) Site

- 3.27 The transit site pitch fees were £40 per week and £20 per week service charges prior to closing for redevelopment in 2015.
- 3.28 The transit site pitch fee and service charges have also been determined to cover the costs of running the site and is proposed to be a weekly fee of £66.59 per pitch as follows:

Pitch Fee	Per week (£)
Staff Costs and Overheads	41.81
Repairs and Maintenance	11.90
Contribution to Business Rates	1.78
Void Cost and Bad Debt provision (20%)	11.10
Total	66.59

- 3.29 The repairs and maintenance costs are based on actual costs in 2014/15. The 20% included for void time and bad debt provision reflects the level of turn over expected at a transit site.

3.30 In addition it is proposed that there will be a weekly service charge of £35.38 per pitch holder which is broken down as follows:

Service Charge	Per Week (£)
Grounds Maintenance	1.83
Litter Picking	9.33
Utilities for Communal Room	0.50
Cleaning of Toilet/Shower Block	3.72
Electricity	10.00
Water	10.00
Total	35.38

3.31 As per the permanent site service charges these have been based on historical actual costs or estimates. The water and electricity service charges have been difficult to estimate accurately for a number of reasons including the recent history of the site where there have not been steady levels of occupation; problems with the infrastructure of the site which could have skewed the usage of utilities and the fact that the new and improved infrastructure of the site should reduce future fuel and water costs. An estimate has therefore been made based on average household consumption rates. However as this is a very broad estimate it is proposed that the committee delegates authority to officers to review and vary this service charge after 6 months usage on site.

3.32 Occupants of the transit site are able to apply for housing benefit if on a low income but the service charges for water and electricity would not be eligible for housing benefit.

3.33 In addition to the pitch fee and service charge we are proposing that we introduce the requirement for licensees of the transit site to pay a deposit of £100 before accessing a pitch which would be returned to them on departure from the site provided that there are no damages, court costs or other costs to the local authority. This is a practice which has recently been established and has been successful on the new transit site in West Sussex.

3.34 We have obtained the following benchmarking information as a comparator to assist in determining if a reasonable pitch fee and service charges are being recommended.

Local Authority	Pitch Fee per week (£)	Service Charge per week (£)
West Sussex	70	20
East Sussex	50	Electricity is extra
Hertfordshire	40 - 60	Electricity is extra
Bath	80	10 for water and electricity is extra
Bristol	60	5 for water and electricity is extra

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The Mobile Homes Act 1983 prescribes the form in which contractual agreements between mobile home/caravan site owners and occupants are drawn up.
- 4.2 Consideration was given to charging a flat rate to permanent pitch holders rather than a banded rate according to the size. However while the day rooms are of identical size, the pitch area does vary significantly allowing different sizes of mobile homes and different household sizes to occupy them.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The Environment Agency have been consulted and assisted the council to develop site rules that are appropriate to residential sites located within an SPZ1. They have confirmed that they consider the site rules contained in the occupation agreements fit for this purpose.
- 5.2 A community group, Patcham and Hollingbury Conservation Association (PAHCA) have been actively involved in advising and scrutinising the development of the sites in light of the location on an SPZ1. A pre commencement planning condition required that the council consulted with the Environment Agency and PAHCA about the Site Management Plan which we did before commencing development on site early last year. At that time PAHCA also helpfully reviewed and commented on the existing site rules for Horsdean transit site. All of the suggestions and recommendations that they made have been incorporated to the express terms (site rules) of both occupation agreements.
- 5.3 The council also consulted with the new residents of the permanent site on 9th February 2016 with regard to the proposed pitch fee and service charges and the proposed occupation agreement. The residents felt that the fees and service charges are reasonable and that the banding by pitch size is fair. They also considered that the conditions set out in the Occupation Agreement are reasonable, helpful and achievable.
- 5.4 The council has also consulted with Friends Families and Travellers (FFT), a national organisation representing the interests of Gypsies and Travellers. FFT consider that the pitch fees and service charges, and the methodology for calculating them for both the permanent and transit site are reasonable and fair. They also considered the Occupation Agreements to be very good, reasonable and to be fair. They considered it to be the best example of an occupation agreement and fee setting process that they have seen.
- 5.5 Members of the Traveller Liaison team Joint Working Group have also seen and commented on the occupation agreements. This includes the police, Trading Standards and City Services. All members were happy with the content.

6. CONCLUSION

- 6.1 This council is required to enter into a contractual agreement with occupants of the new permanent traveller site and transit site.

- 6.2 The Mobile Homes Act 1983 prescribes the form these agreements must take. The express terms can be varied but must be fair and reasonable. The express terms incorporate site rules for the good and safe management of the site particularly in light of the location.
- 6.3 The council must set a pitch fee and service charges for the site and it is recommended that this is done on the basis of covering costs, excluding security guard costs, and ensuring that there are adequate reserves for the future maintenance of the site.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The 2016/17 draft revenue budget for the travellers' service as proposed to Policy and Resources Committee 11th February 2016 is £639,810. As the site will not be open until the summer of 2016, and there are uncertainties over future estimated costs and the levels of income recovery, a prudent approach has been taken to set the revenue budget with the assumption that the changes to the new site will be cost neutral. Once the site opens, actual cost and income for 2016/17 will be monitored through the usual Targeted Budget Management (TBM) process. This data will then be used to adjust the level of rent and service charges, if necessary and will inform the budget setting process for 2017/18.

Finance Officer Consulted: Monica Brooks

Date: 10/02/16

Legal Implications:

Under the Mobile Homes Act as amended and enacted, there are a pre-determined set of requirements for what should be included within any occupancy agreement. These have been adopted and so are statute. There is provision for additional terms to be incorporated. This has been done and those additional terms have been consulted upon. The terms would have to be proportionate and not breach any Equalities issues. The consultation has confirmed the agreement to the terms by the relevant groups and so it is the case that they are accepted as reasonable and proportionate.

The rent setting (and deposit) provisions have a clearly articulated formulae with a very clear logic behind the elements that make them up. They will need to be reviewed and this will be a matter for the relevant committee in due course.

The Equalities issues are detailed below, but in addition there are placed upon a local authority requirements and duties under the Equalities Act. I do not consider that the terms breach the duties and the consultation reinforces that they are deemed acceptable by the relevant groups.

It is also noted that there are external pressures due to the location. This is in part due to the Environment agency concerns and in part because it is within the boundaries of the National park. As these agencies have also been consulted and have approved the tenancy agreements in regard to their issues of concern, we do not face any challenges in relation to those bodies. We note however that

particularly in the case on the environment agency, we will need to remain responsive to any issues which may arise and be prepared to respond accordingly.

7.2 *Lawyer Consulted: Simon Court*

Date: 11.02.15

Equalities Implications:

7.3 Provision of a stable location for travelling families enables them to financially contribute to their accommodation costs, pay council tax etc. It will also enable them to focus on health and education issues in the hope that educational attainment and health and well-being will improve for these Traveller families.

Sustainability Implications:

7.4 The express terms (site rules) of both Occupation Agreements are written with assistance from the Environment Agency to ensure that the site is run and occupied in such a way that affords protection to the environment.

7.5 The fees and service charges have been determined so as to move the site towards a self-funding model reducing minimising current and future reliance on corporate council budgets.

Risk and Opportunity Management Implications

7.6 Investment in a well-run permanent and transit traveller will be very likely to reduce unauthorised encampments reducing the risks of community tension between the settled communities and travelling communities and reducing costs both to the Local Authority and the police.

SUPPORTING DOCUMENTATION

Appendices:

1. Occupation Agreement for the Permanent (protected) Traveller Site
2. Discretionary Succession Policy for the Permanent (protected) Traveller Site
3. Occupation Agreement for the Transit (unprotected) Traveller Site

Background Documents

1. Equalities Impact Assessment