



Licensing and Health and Safety Enforcement Committee

TUESDAY 12 SEPTEMBER 2023 AT 7.30 PM

Conference Room 2 - The Forum

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Membership

Councillor Allen
Councillor Bhinder
Councillor Bristow
Councillor Deacon
Councillor Durrant
Councillor Johnson

Councillor B Link (Vice-Chair)
Councillor Pesch
Councillor Pringle (Chair)
Councillor Reynolds
Councillor Santamaria
Councillor A Williams

For further information, please contact Corporate and Democratic Support on 01442 228209 or email member.support@dacorum.gov.uk

AGENDA

1. **MINUTES** (Page 3)
To confirm the minutes from the previous meeting.
2. **APOLOGIES FOR ABSENCE**
To receive any apologies for absence.
3. **DECLARATIONS OF INTEREST**
To receive any declarations of interest.
4. **PUBLIC PARTICIPATION**
5. **ARRANGEMENTS FOR PAVEMENT LICENSING 2023-24** (Pages 4 - 6)
6. **MOBILE HOMES FEES POLICY 2023-24** (Pages 7 - 19)

DACORUM BOROUGH COUNCIL

LICENSING AND HEALTH AND SAFETY ENFORCEMENT COMMITTEE

17 MAY 2023

Present-

MEMBERS:

Pringle (Chairman), Bhinder, Durrant, B Link (Vice-Chair), Pesch and A Williams

OFFICERS:

T Angel Corporate and Democratic Support Officer (Minutes)

The meeting began at 8.15 pm

1. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillors Allen and Johnson.

2. APPOINTMENT OF THE LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE

Appointment of Members to the Licensing and Health and Safety Enforcement Sub-Committee were considered.

Resolved:

That the following be appointed until the Annual Meeting of the Council 2024.

LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE (6 members = 3:2:1:0)

Liberal Democrat	Conservative	Labour
Lara Pringle (Chair)	Alan Johnson	Barbara Pesch
Brenda Link (Vice-Chair)	Alex Bhinder	
David Deacon		
		Independent

The meeting ended at 8:21 pm.

Agenda Item 5



AGENDA ITEM: 5

Report for:	Licensing and Health & Safety Enforcement Committee
Date of meeting:	12 September 2023
PART:	I
If Part II, reason:	N/A

Title of report:	Arrangements for pavement licensing 2023-24
Contact:	Sally McDonald, Lead Licensing Officer, Legal & Democratic Services
Purpose of report:	To advise the Committee on the current position for pavement licensing due to the delayed implementation of new legislation.
Recommendations	Following the publication of amendments to the current legislation, that the Committee agree that the existing administrative and fee arrangements for pavement licences continue as they are until 30 September 2024.
Corporate objectives:	<ul style="list-style-type: none"> • A clean, safe and enjoyable environment; • Building strong and vibrant communities; • Ensuring economic growth and prosperity; and • Delivering an efficient and modern council.
Implications:	<p>Financial: Current maximum fee permitted is £100 for a one year licence, although this does not cover the cost of the process for determining each licence, the work is currently covered within existing staff resources.</p> <p>Value For Money: Maintaining existing arrangements continues to be the best value for money approach.</p> <p>Community Impact: Correct licensing provisions will enable businesses to continue to provide furniture outside their premises, encouraging customers to visit, and enhancing the vibrancy of town and village centres.</p>

Consultees:	None
Legislation:	Business and Planning Act 2020, Business and Planning Act 2020 (Pavement licences)(Coronavirus)(Amendment) Regulations 2023
Glossary of acronyms and any other abbreviations used in this report:	N/A

1. BACKGROUND

- 1.1. The Business and Planning Act 2020 obtained Royal Assent in July 2020, at the time introducing a number of powers and requirements on local authorities with the aim of supporting local businesses and helping economic recovery during the easing of restrictions put in place by Government to address the pandemic during the earlier part of 2020. At the time, these arrangements were put in place as a temporary measure, ending on 30th September 2021 – this was subsequently extended to September 2022, then September 2023.
- 1.2. As part of the new regulations, the responsibility for administration of pavement licences was passed over to local authorities from Hertfordshire County Council – they currently retain responsibility for enforcement.
- 1.3. The key requirements of pavement licensing are as follows:
- Any business selling and/or serving food or drink may apply for a pavement licence to have tables and chairs and other street furniture such as patio heaters placed on the highway adjacent to their premises for the benefit of their customers – if the land is not a highway and is privately owned land separate consent of the landowner is required.
 - Licences will be considered granted unless the Council rejects them within a set statutory period.
 - The Council currently has 14 days to determine an application, with half of that forming a public consultation, and the other half being the time permitted for the consultations received to be considered and a decision made.
 - A maximum fee of £100 can be charged for applications.
 - Licences are applied for annually and can last for a maximum of the full period that the legislation will have effect, currently 30th September 2023.

2. FORTHCOMING CHANGES

- 2.1. Pavement licensing has been included in the provisions of the Levelling up and Regeneration Bill, which, at the time of writing this report, is with the House of Lords. It was believed that the bill would have been enacted by 30th September 2023, but given the short time before the September 2023 deadline, we now know this is not going to be the case.
- 2.2. An amendment to the original legislation, the Business and Planning Act 2020 (Pavement licences) (Coronavirus)(Amendment) Regulations 2023, were published with a commencement date of 10th August 2023. These effectively amend the current September 2023 end date for the existing arrangements to 30th September 2024.

2.3. All existing Licence holders have been contacted to advise them that they will need to apply to renew in the same way as in previous years in order to maintain their permissions to place furniture on the highway outside their premises.

3. FUTURE ARRANGEMENTS

3.1. When the Levelling Up and Regeneration Bill has been enacted, a further report will be presented to this Committee, to advise them of the new arrangements and seek authorisation for a potentially different fee structure.



AGENDA ITEM: 6

Report for:	Licensing and Health & Safety Enforcement Committee
Date of meeting:	12 September 2023
PART:	I
If Part II, reason:	

Title of report:	Mobile Homes Fees Policy 2023-24
Contact:	Sally Mcdonald, Lead Licensing Officer/Kim Knight, Compliance and Technical Officer, Legal and Democratic Services
Purpose of report:	To present a corrected version of the Mobile Homes Fees Policy for 2023-24, following an administrative error.
Recommendations	1. That the Committee approve the amended Mobile Homes Fees Policy as set out in Annex A to this report.
Implications:	Financial None in this report, the fees presented to the Committee in March 2023 were approved at that time. Risk / Community Impact / Health And Safety Implications None identified
Consultees:	N/A
Background papers:	Amended Mobile Homes Fees Policy 2023-24 (See Annex A)
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. The Mobile Homes Fees Policy was originally presented to the Licensing Committee on 28 March 2023. However, the officer that presented the policy inadvertently attached an incorrect out of date version of the policy document, and it was this that was agreed.

- 1.2. This error has come to light since the departure of the officer from the Council, during a checking exercise prior to raising invoices in line with the fees contained within the Policy.
- 1.3. The version of the Policy attached to this report at Annex A is an updated version of the 2021-22 policy document that had been the subject of a significant review when responsibility for the function was handed over to Licensing in 2018. The 2021-22 document was previously agreed by this Committee and published on the Dacorum Borough Council website as a correct version, and there are only two minor updates to that version – removal of a reference to transitional arrangements when the function was moved over, and an update to this year's fees.
- 1.4. Therefore, agreement is sought to publish the updated and corrected document so that these invoices can be raised.



Mobile Homes Fees Policy



Effective from	1 st April 2021
Version no.	2.0
Date reviewed	September 2023

Working in partnership, to create a Borough which enables the communities of Dacorum to thrive and prosper

Affordable Housing ♦ Regeneration ♦ Building Community Capacity ♦ Safe and Clean Environment ♦ Dacorum Delivers

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Duration of the Policy

This policy will remain in force until reviewed.

1. Introduction

Dacorum Borough Council has granted Caravan site licences under The Caravan Sites and Control of Development Act 1960 (as amended) for sites that have planning permission for a caravan site. The Caravan Sites and Control of Development Act 1960 has now been amended by the Mobile Homes Act 2013. The Mobile Homes Act 2013 was introduced in order to provide greater protection to occupiers of residential park homes and caravans as the existing legislation had not been updated for more than 50 years. This Act introduced some important changes to the buying, selling or gifting of a park home and the pitch fee review process.

There is an expectation that councils inspect sites and the Council intends to do annually; this timescale will be reviewed if it becomes apparent that it is appropriate to do so. The Council can charge a fee for different licensing functions, serve enforcement notices and publish any site rules relating to a site. The fee generated by the Mobile Homes Act 2013 is not designed to include investigation of harassment or matters not related to the site licence – these should be dealt with through other appropriate channels.

This policy details what will be charged for each function. Current fees are shown in Table 1 in Annex 2. The table will be updated to reflect the current fees agreed by the Council via the Licensing and Health & Safety Committee. Fees will be reviewed annually ahead of each new fiscal year and from time to time as and when the cost of delivering licensing function is considered to have materially changed.

2. Fees charged for site licences

The changes introduced by the Mobile Homes Act 2013 for site licensing 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”. A relevant protected site is defined in the Act as any land to be used as a caravan site with planning consent, other than one where a licence is:

- Granted for holiday use only
- In any other way subject to conditions which restrict the usage of the site for the stationing of caravans for human habitation at certain times of the year (such as planning conditions).

Sites which do not fall within the definition of ‘relevant protected sites’ are still subject to the licensing requirements contained within the Caravan Sites and Control of Development Act 1960, but the provisions relating to payment of fees do not apply.

Under the new Act 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.

The Council has calculated fees in accordance with the provisions of MHA13 which allows a local authority to include all reasonable costs and this includes administrative costs, officer visits to the site, travel costs, consultations, meetings, undertakings and informal advice.

3. Application for a new site licence

All sites require a site licence to operate (subject to exemptions in the Caravan Sites and Control of Development Act 1960); failure to apply for licence is an offence under Section 1(2) of Caravan Sites and Control of Development Act 1960. The Council may only issue a licence for a site with a valid and correct planning permission for the use.

As details of the required planning permission are required as part of a complete application, no application for a site licence will be accepted without this. Sites which have the correct planning permission in place will be processed within 2 months of the licence application.

4. Transfer/amendment of existing site licence (including changes to conditions)

Where a licence holder wishes to transfer the licence an application must be made to the Council, for which a fee is payable. The fee must accompany the application to transfer the licence.

Where a site owner requests an amendment to site licence conditions the Council will charge a fee for this function. Applications can be made at any time by licence holders to vary or cancel conditions, but the fee is payable at the application stage. Whether a site visit will be required as part of any variation will be a decision of the Council and an additional fee will apply when this is the case.

If the Council deem it necessary to alter conditions there will be no fee payable.

5. Annual Fees for Site Licences

All relevant protected sites must pay an annual fee to the Council (subject to any exemptions stated in this Policy). The fee is due on 1st April each year, see below for transitional arrangements where annual fees have previously been due in January each calendar year.

Charges are based on estimates from experience associated with the administration responding to enquiries and conducting inspections of sites varying in type and size. The Council is not permitted to make a surplus from this function.

The annual fee covers the costs associated with site inspections to ensure compliance with the site licence conditions and a follow up visit to ensure compliance with any informal schedule of works. If there is still a breach in site licence conditions at the point of the follow up visit further charges may be payable to cover the cost of any enforcement action which may be taken. Further details can be found in section 6 - Enforcement Action.

The fee is calculated using a standard initial fee which covers aspects of an inspection which are expected to be roughly similar in all cases such as travel time for example, the second part of the fee is established on an individual basis a price per licensed pitch to reflect the variation in cost due to the size of the site.

All sites will be inspected annually as it is recognised that any longer than this could lead to site licence breaches not being identified until a significant amount of time has passed.

DCLG guidance offers a variety of suggested options for local authorities in calculating the annual fee and this approach has been adopted as it is considered to offer a balance of transparency and fairness without creating an unnecessarily complicated fee setting process.

Annual fees payments

The fees will be considered annually by the Licensing and Health & Safety Committee and will be published by the Council along with all other fees and charges that the Council makes.

Sites exempted from Annual Licensing fees

- Sites that are not relevant protected sites
- Sites for the Site owner and their family (does not include sites that are run for financial gain)
- Gypsy Roma and Traveller Sites

The Council will continue to assess its previous year's costs to determine if they were accurate. If costs are less than predicted for that year, the excess monies will be reflected in the fee charged to the site owner in the next year. In that case the fee to the site owner would be the licence fee for year 2 minus the money not spent from year 1. If insufficient income was received in a year, consideration of this will be given when the fees are set for the following year, and whether to seek to recover the excess costs of regulating the sites.

Charging Arrangements

For the purpose of this policy the period covered by the annual fee will be 1st April to 31st March each financial year. The fee will be charged to the site owner/licence holder and payment advice will be sent at the start of the financial year with payment due within 30 days.

Where a new site licence is issued part way through the year, the annual fee will be pro-rata for that year. The calculation will be done using months and will take into account all months and part-months that the licence will cover for the initial year.

Where an amended licence is issued part way through the year (which included either additional units or a reduction in units), the change in annual fee will be calculated on a pro-rata basis for the remainder of the year. The calculation will be done using months and will take into account all months and part-months that the licence will cover for the initial year.

In the event an annual fee is not paid the Council may apply to the First Tier Tribunal (Property Chamber) for an order requiring the licence holder to pay the amount due. Following non-payment of the annual fee, the costs of any litigation and collection of the fee, may be re-charged to the site owner. Charges for collection of the annual fee cannot be passed onto the residents pitch fee.

Applications will not be determined if no fee or a lower fee than required is paid.

Fees for new site applications or variation to site licences will not be refunded if the application is refused. However, if an applicant pays more than the required fee, the additional payment will be refunded in all circumstances.

6. Enforcement Action

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 Caravan Sites and Control of Development Act 1960 details the elements which a council 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.

7. 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 changed 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 site rules the Council will ensure the rules deposited have been made in accordance with the statutory procedure – a fee can be charged for this function.

Any site rules deposited with the Council 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.

8. Publishing and revising the fee policy

This fees policy and the fees charged is published on the Dacorum Borough Council Licensing website at <http://www.dacorum.gov.uk/home/environment-street-care/licensing/mobile-homes>

The fees detailed in this policy have been determined based on experience of dealing with site licensing historically.

Annex 1 Elements included in fee setting

The Council following the Department for Communities and Local Government guidance has sets out the following activities that are included in calculating its fees, these include:

- letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the licensing process;
- handling enquiries and complaints;
- updating document storage and computer systems (including maintenance and upgrade of such systems and the future development e-forms etc)
- updating the website as appropriate;
- processing the licensing fees through BACS, Cheque, e-payment systems
- time for reviewing necessary documents and certificates;
- preparing reports and the holding of committees to determine a licence or the review of policies and conditions of licensing;
- review by manager or lawyers
- review any consultation responses from third parties;
- carrying out any risk assessment process considered necessary
- full site inspection and reports;
- any follow up inspection to monitor compliance as necessary

Annex 2 Fees Table

Fee	Charge
New Site Licence Application Fee	£513.70 + £8.69 per unit
Annual Fee	£52.00 + £8.74 per unit
Deposit/Change of Site Rules	£89.10
Transfer/amendment of a Site Licence	£209.00 (+£103.40 if a site visit is required)
Enforcement	Hourly rate of officers involved, plus any other costs such as legal fees.

Annex 3 – Contact details

For information on this policy, please contact:

**Licensing
Dacorum Borough Council
The Forum
Marlowes
Hemel Hempstead
HP1 1DN**

Email: licensing@dacorum.gov.uk

Web: www.dacorum.gov.uk/licensing

To make an application or for further guidance, please visit our website:
www.dacorum.gov.uk/licensing

For informal advice or queries, please email:
licensing@dacorum.gov.uk