

## Licensing Committee Agenda

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**Date:** Monday, 5th March, 2018  
**Time:** 2.00 pm  
**Venue:** Committee Suite 1, 2 & 3, Westfields, Middlewich Road,  
Sandbach CW11 1HZ

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

It should be noted that Part 1 items of Cheshire East Council decision making and Overview and Scrutiny meetings are audio recorded and the recordings will be uploaded to the Council's website.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

To receive apologies for absence.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with paragraph 2.32 of the Committee Procedural Rules and Appendix 7 to the Rules a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

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Please contact Julie Zientek on 01270 686466  
E-Mail: [julie.zientek@cheshireeast.gov.uk](mailto:julie.zientek@cheshireeast.gov.uk) with any apologies or requests for further information or to give notice of a question to be asked by a member of the public

4. **Minutes of Previous Meeting** (Pages 3 - 6)

To approve the minutes of the meeting held on 6 November 2017.

5. **Minutes of Licensing Sub-Committees** (Pages 7 - 26)

To receive the minutes of the following meetings:

**Licensing Act Sub-Committee**

31 October 2017  
7 November 2017  
13 November 2017  
20 November 2017  
11 December 2017

**General Licensing Sub-Committee**

24 October 2017  
16 November 2017  
12 December 2017  
23 January 2018

6. **Annual Review of the Mobile Homes Act 2013 (Fees and Charges Policy)**  
(Pages 27 - 40)

To consider the proposed Regulatory Services and Health Mobile Homes Act 2013 Fees and Charges Policy for 2018-2019.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Committee**  
held on Monday, 6th November, 2017 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor D Bebbington (Vice-Chairman, in the Chair)

Councillors Rhoda Bailey, E Brooks, C Chapman, S Edgar (for Cllr Davies),  
A Harewood, O Hunter, M Parsons, L Smetham, M Warren, M J Weatherill  
and J Wray

**OFFICERS PRESENT**

Kim Evans, Licensing Team Leader  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

**1 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors S Davies, B Dooley, I Faseyi  
and G Wait.

**2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public present.

**4 MINUTES OF PREVIOUS MEETING**

RESOLVED – That the minutes of the meeting held on 6 March 2017 be  
approved as a correct record and signed by the Chairman.

**5 MINUTES OF LICENSING SUB-COMMITTEES**

RESOLVED – That the minutes of the following meetings be received:

(a) Licensing Act Sub-Committee meetings held on:

10 April 2017  
19 April 2017  
24 April 2017  
8 May 2017  
10 May 2017  
15 May 2017

23 June 2017  
3 July 2017  
2 August 2017

(b) General Licensing Sub-Committee meetings held on:

24 February 2017  
10 March 2017  
30 March 2017  
13 April 2017  
30 June 2017  
18 July 2017  
24 August 2017  
19 September 2017

## 6 REVIEW OF LICENSING FEES AND CHARGES

The Committee considered a report seeking approval to increase the licensing fees and charges for the issuing and renewal of licenses, consents and permits issued by the Licensing Team with effect from January 2018.

A number of fees were set by statute or regulations, while others could be set by Local Authorities in order to cover the cost of administration, compliance and some elements of enforcement. Where the Council had the discretion to set fees, they were subject to review. Fees had remained at current levels for several years due to efficiency savings that had alleviated most budgetary pressures. However, efficiency savings had now been maximised and an increase in certain fees was required as a result of annual increases in staffing costs.

### RESOLVED

- (a) That the fees payable as set out in appendix A to the report be confirmed.
- (b) That the Licensing Team Leader be authorised to publish the Hackney Carriage and Private Hire Licensing fees in accordance with the relevant legislative provisions.
- (c) That authority be delegated to the Director of Planning and Sustainable Development to consider any objections received and determine the final fees payable, in consultation with the Chairman of the Licensing Committee.

## 7 DETAILS OF LICENSED VEHICLES SUSPENDED

The Committee considered a report regarding licensed vehicles that had been suspended by Licensing Officers during the period 1 January 2017 to 30 September 2017.

The Council's Scheme of Delegation made provision for officers to suspend vehicles in certain circumstances, including where vehicles were in breach of a Council condition, a breach of legislation or byelaws, accident damage, and where the vehicle was not fit for use. Details of vehicles suspended by officers were periodically reported to the Licensing Committee.

RESOLVED – That the licensed vehicles suspended by Licensing Officers for the period 1 January 2017 to 30 September 2017, as set out in appendix 1 to the report, be noted.

The meeting commenced at 2.00 pm and concluded at 2.20 pm

Councillor D Bebbington (Vice-Chairman, in the Chair)

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Tuesday, 31st October, 2017 at West Committee Room - Municipal  
Buildings, Earle Street, Crewe, CW1 2BJ

**PRESENT**

Councillor W S Davies (Chairman)

Councillors Rhoda Bailey and M Warren

**OFFICERS IN ATTENDANCE**

Kim Evans, Licensing Team Leader  
Jennifer Knight, Senior Licensing Officer  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

**10 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor S Davies be appointed Chairman.

**11 DECLARATIONS OF INTEREST**

Councillor M Warren declared that one of the representatives of Cheshire Constabulary was a former colleague but that this would not influence his decision, which would be made on the evidence presented.

**12 TEMPORARY EVENT NOTICE: HASLINGTON HALL, HOLMSHAW LANE, HASLINGTON CW1 5TJ**

The Sub-Committee considered a report regarding a temporary event notice served under the provisions of the Licensing Act 2003 and an objection notice served by Cheshire Constabulary in relation to the temporary event notice.

The following attended the hearing and made representations with respect to the temporary event notice:

- the premises user
- a representative of the premises user
- two representatives of Cheshire Constabulary

After a full hearing and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy

- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the objection notice

the following course of action had been agreed:

RESOLVED - That a counter notice be given to the Notice of Temporary Event under section 105 of the Licensing Act 2003, on the grounds that the licensing objective of public safety has not been met.

All parties were reminded of their right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 10.00 am and concluded at 11.02 am

Councillor W S Davies (Chairman)

## CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Tuesday, 7th November, 2017 at Council Chamber, Municipal  
Buildings, Earle Street, Crewe CW1 2BJ

### PRESENT

Councillor W S Davies (Chairman)

Councillors D Bebbington and M Parsons

### OFFICERS IN ATTENDANCE

Kim Evans, Licensing Team Leader  
Jennifer Knight, Senior Licensing Officer  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

### 13 APPOINTMENT OF CHAIRMAN

RESOLVED –That Councillor S Davies be appointed Chairman.

### 14 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 15 APPLICATION FOR A REVIEW TO THE PREMISES LICENCE AT WHITE HORSE INN, 22 PILLORY STREET, NANTWICH CW5 5BD

The Sub-Committee considered a report regarding an application for the review of the Premises Licence for the White Horse Inn, 22 Pillory Street, Nantwich CW5 5BD.

The following attended the hearing and made representations with respect to the application:

- the applicant
- a representative of the Public Health Team
- two representatives of Cheshire Constabulary
- three representatives of the premises licence holder
- the designated premises supervisor
- a supporter of the premises

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED - That it is not appropriate to take any action or impose any further conditions on the licence in order to prevent harm to the licensing objectives at this time.

The applicant and parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days of service of the written notice of the decision.

The meeting commenced at 2.00 pm and concluded at 3.58 pm

Councillor W S Davies (Chairman)

## CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Monday, 13th November, 2017 at East Committee Room - Municipal  
Buildings, Earle Street, Crewe, CW1 2BJ

### PRESENT

Councillor W S Davies (Chairman)

Councillors Rhoda Bailey and D Bebbington

### OFFICERS IN ATTENDANCE

Peter Jones, Lawyer

Jennifer Knight, Senior Licensing Officer

Julie Zientek, Democratic Services Officer

### 16 APPOINTMENT OF CHAIRMAN

RESOLVED –That Councillor S Davies be appointed Chairman.

### 17 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 18 APPLICATION FOR A PREMISES LICENCE - DOMINOS, 38-40 BEAM STREET, NANTWICH, CHESHIRE CW5 5LJ

The Sub-Committee considered a report regarding an application for a Premises Licence for Dominos, 38 - 40 Beam Street, Nantwich, Cheshire CW5 5LJ.

The following attended the hearing and made representations with respect to the application:

- three representatives of the applicant

Following advice from the Lawyer, the Sub-Committee agreed to proceed in the absence of a representative from Nantwich Town Council, which had submitted an objection to the application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy

- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED - That the application for a premises licence be granted as applied for, subject to:

- (a) The imposition of the measures contained within the operating schedule (as set out in the Application) as conditions of the licence, with the following amendments:
  - The premises shall remain closed to the public between 03:00 and 05:00 hours except to allow *outward-bound deliveries of late night refreshment*.
  - Customers will be encouraged to leave the premises in a quiet and orderly manner *and a notice will be placed at a strategic place within the premises where persons exiting can readily observe it*.
- (b) The following discretionary condition:

There will be no inward bound deliveries of stock to the premises between the hours of 23:00 hours and 07:00 hours on any day.

The Applicant and Parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days of service of the written notice of the decision.

The meeting commenced at 10.00 am and concluded at 11.20 am

Councillor W S Davies (Chairman)

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Monday, 20th November, 2017 at Committee Suite 1,2 & 3,  
Westfields, Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor W S Davies (Chairman)

Councillors A Harewood and M Parsons

**OFFICERS IN ATTENDANCE**

Kim Evans, Licensing Team Leader

Peter Jones, Lawyer

Jennifer Knight, Senior Licensing Officer

Julie Zientek, Democratic Services Officer

**19 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor S Davies be appointed Chairman.

**20 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**21 APPLICATION FOR A PREMISES LICENCE - SUBURBAN GREEN, 4 HAWTHORN LANE, WILMSLOW SK9 1AA**

The Sub-Committee considered a report regarding an application for a Premises Licence for Suburban Green, 4 Hawthorn Lane, Wilmslow SK9 1AA.

The following attended the hearing and made representations with respect to the application:

- three representatives of the applicant
- a representative of local residents

The Sub-Committee was informed that some of the interested parties who had submitted objections were unable to attend and were not represented at the meeting. Following advice from the Lawyer present at the meeting, the Sub-Committee agreed to proceed in the absence of those interested parties, taking account of their written representations.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED - That the application for a premises licence be granted as applied for, subject to:

- (a) The imposition of the measures contained within the operating schedule and annexes, as set out in the Application, as conditions of the licence, including the Dispersal and Smoking/AI Fresco Dining Policies.
- (b) The following agreed condition requested by Cheshire East Council's Environmental Protection Team:

There shall be no disposal of refuse including bottles outside the premises or deliveries made to the premises between 21:00 hours and 07:00 hours.

- (c) The following discretionary condition:

There shall be no admittance to the premises after midnight save and insofar as to readmit customers having temporarily left the premises to smoke.

The Applicant and Parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days of service of the written notice of the decision.

The meeting commenced at 2.00 pm and concluded at 3.20 pm

Councillor W S Davies (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Monday, 11th December, 2017 at The Capesthorne Room - Town  
Hall, Macclesfield SK10 1EA

### **PRESENT**

Councillor L Smetham (Chairman)

Councillors A Harewood and M Parsons

### **OFFICERS IN ATTENDANCE**

Sarah Baxter, Democratic Services  
Kim Evans, Licensing Team Leader  
Jennifer Knight, Senior Licensing Officer  
Aoife Ryan, Lawyer

### **22 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor L Smetham be appointed Chairman.

### **23 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **24 APPLICATION FOR A PERSONAL LICENCE**

The Sub-Committee considered a report regarding an application for a Personal Licence. It was agreed that the Committee would continue with the hearing in the absence of the applicant.

The following attended the hearing and made representations with respect to the application:

- a representative of Cheshire Constabulary

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)

- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED - That the application be refused on the grounds that the licensing objective of prevention of crime and disorder has not been met.

**25 WITHDRAWN APPLICATION TO VARY A PREMISES LICENCE - LYME BREEZE, WOOD LANE EAST, ADLINGTON SK10 4PH**

This item was withdrawn prior to the meeting.

**26 URGENT ITEM - TEMPORARY EVENT NOTICE: THE WHITE HORSE, 22 PILLORY STREET, NANTWICH CW5 5BD**

This item was withdrawn prior to the meeting.

**27 URGENT ITEM - TEMPORARY EVENT NOTICE: THE WHITE HORSE, 22 PILLORY STREET, NANTWICH CW5 5BD**

This item was withdrawn prior to the meeting.

**28 URGENT ITEM - TEMPORARY EVENT NOTICE: THE WHITE HORSE, 22 PILLORY STREET, NANTWICH CW5 5BD**

This item was withdrawn prior to the meeting.

**29 URGENT ITEM - TEMPORARY EVENT NOTICE: THE WHITE HORSE, 22 PILLORY STREET, NANTWICH CW5 5BD**

This item was withdrawn prior to the meeting.

The meeting commenced at 10.30 am and concluded at 11.09 am

Councillor L Smetham (Chairman)

## CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Tuesday, 24th October, 2017 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors D Bebbington, C Chapman, M Parsons and L Smetham

### **OFFICERS IN ATTENDANCE**

Peter Jones, Lawyer

Martin Kilduff, Licensing Officer

Julie Zientek, Democratic Services Officer

### **32 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor S Davies be appointed Chairman.

### **33 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **34 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **35 EXCLUSION OF THE PUBLIC AND PRESS**

RESOLVED - That the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A) 4 of the Local Government Act 1972 on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing the information.

### **36 17-18/16 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding the holder of a Joint Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee was informed that the matter fell within the Council's policy for determination by the Sub-Committee. Accordingly, the hearing had been convened to enable the Sub-Committee to determine whether the licence holder remained a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence.

The licence holder attended the hearing and made representations in respect of the case.

After a full hearing, and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of all the evidence, the following course of action had been agreed.

RESOLVED

- (a) That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence
- (b) That the Joint Hackney Carriage/Private Hire Driver's Licence be subject to a period of suspension for two weeks as a deterrent sanction.

The licence holder was reminded of the right to appeal this decision to the Magistrates' Court within 21 days.

**37 17-18/17 APPLICATION FOR THE RENEWAL OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding an application for the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine whether the application for the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence should be granted.

The applicant was not in attendance at the hearing.

After a full hearing, and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of all the evidence, the following course of action had been agreed.

RESOLVED - That the applicant is not at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that the application for the renewal of a Joint Hackney Carriage/Private Hire Driver Licence be refused.

The Sub-Committee noted that the applicant would be reminded of the right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 10.00 am and concluded at 11.15 am

Councillor W S Davies (Chairman)

## CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Thursday, 16th November, 2017 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors Rhoda Bailey and B Dooley

### **OFFICERS IN ATTENDANCE**

Martin Kilduff, Licensing Officer

Aoife Ryan, Lawyer

Julie Zientek, Democratic Services Officer

### **38 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor S Davies be appointed Chairman.

### **39 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors D Bebbington and O Hunter.

### **40 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **41 EXCLUSION OF THE PUBLIC AND PRESS**

RESOLVED - That the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A) 4 of the Local Government Act 1972 on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing the information.

### **42 17-18/18 APPLICATION FOR THE RENEWAL OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

Note: Councillor Rhoda Bailey and Aoife Ryan declared that they knew the applicant's representative.

The Sub-Committee considered a report regarding an application for the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the

hearing had been convened to enable the Sub-Committee to determine whether the application for the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence should be granted.

The applicant and a representative of the applicant attended the hearing and made representations in respect of the case.

After a full hearing, and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of all the evidence, the following course of action had been agreed.

RESOLVED - That the applicant is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence, and that the application for the renewal of a licence be granted.

The meeting commenced at 2.00 pm and concluded at 2.50 pm

Councillor W S Davies (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Tuesday, 12th December, 2017 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors B Dooley, I Faseyi, M Parsons and J Wray

### **OFFICERS IN ATTENDANCE**

Kim Evans, Licensing Team Leader  
Richard Hellon, Licensing Officer  
Peter Jones, Lawyer  
Julie Zientek, Democratic Services Officer

#### **43 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor S Davies be appointed Chairman.

#### **44 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

#### **45 DECLARATIONS OF INTEREST**

There were no declarations of interest.

#### **46 EXCLUSION OF THE PUBLIC AND PRESS**

RESOLVED - That the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A) 4 of the Local Government Act 1972 on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing the information.

#### **47 17-18/19 APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding an application for a Joint Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine

whether the application for a Joint Hackney Carriage/Private Hire Driver's Licence should be granted.

The applicant attended the hearing and made representations in respect of the case.

After a full hearing, and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of all the evidence, the following course of action had been agreed.

RESOLVED - That the applicant is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that the application for a licence be granted.

48 **17-18/20 APPLICATION FOR THE RENEWAL OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding an application for the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine whether the application for the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence should be granted.

The applicant and a representative of the applicant attended the hearing and made representations in respect of the case.

After a full hearing, and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of all the evidence, the following course of action had been agreed.

RESOLVED - That the applicant is not at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that the application for a licence be refused.

The applicant was reminded of the right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 10.00 am and concluded at 12.00 pm

Councillor W S Davies (Chairman)

## CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Tuesday, 23rd January, 2018 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillors S Davies, D Bebbington, M Parsons, L Smetham and J Wray

### **Officers in attendance**

Kim Evans, Licensing Team Leader  
Jim Hopper, Licensing Officer  
Martin Kilduff, Licensing Officer  
Peter Jones, Lawyer  
Rachel Graves, Democratic Services Officer

### **49 APPOINTMENT OF CHAIRMAN**

#### **RESOLVED:**

That Councillor S Davies be appointed Chairman.

### **50 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **51 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **52 EXCLUSION OF THE PUBLIC AND PRESS**

#### **RESOLVED:**

That the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A) 4 of the Local Government Act 1972 as amended on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing the information.

**53 17-18/21 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE AND CONSIDERATION OF A HACKNEY CARRIAGE VEHICLE LICENCE**

The Licensing Team Leader reported that the Licence Holder had requested that consideration of their case be deferred due to family circumstances.

**RESOLVED:**

That consideration of the case be deferred to the next meeting of the General Licensing Sub-Committee.

**54 17-18/22 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding the holder of a Joint Hackney Carriage/Private Hire Driver's Licence and Hackney Carriage Vehicle Licence.

The Sub-Committee was informed that the matter fell within the Council's policy for determination by the Sub-Committee. Accordingly, the hearing had been convened to enable the Sub-Committee to determine whether the licence holder remained a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence.

The Licence Holder, their Representative and the Complainant attended the hearing and made representations in respect of the case.

After a full hearing, and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of all the evidence, the following course of action had been agreed.

**RESOLVED:**

- 1 That a formal written warning be issued with respect to the licence holder's future conduct.
- 2 That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence.

**55 17-18/23 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding the holder of a Joint Hackney Carriage/Private Hire Driver's Licence and Hackney Carriage Vehicle Licence.

The Sub-Committee was informed that the matter fell within the Council's policy for determination by the Sub-Committee. Accordingly, the hearing had been convened to enable the Sub-Committee to determine whether the licence holder remained a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence.

The Licence Holder attended the hearing and made representations in respect of the case.

After a full hearing, and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of all the evidence, the following course of action had been agreed.

**RESOLVED:** That

- 1 the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence;
- 2 But that their Joint Hackney Carriage/Private Hire Driver Licence be subject to a period of suspension for six month.

The Licence Holder was reminded of the right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 10.00 am and concluded at 1.40 pm

Councillor S Davies

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**CHESHIRE EAST COUNCIL****Licensing Committee**

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<b>Date of Meeting:</b>	5 <sup>th</sup> March 2018
<b>Report of:</b>	Environmental Protection Team Leader - Regulatory Services and Health
<b>Subject/Title:</b>	Annual Review of the Mobile Homes Act 2013 (Fees and Charges Policy)

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**1.0 Report Summary**

- 1.1 In accordance with the Mobile Homes Act 2013 (MHA13), the Council is permitted to charge a fee for administering the statutory licensing function for residential caravan sites. As part of setting the fees the Council is required to have a Fees and Charges Policy in place for mobile home sites, which must be reviewed annually to reflect the cost of administering the licensing function. The purpose of this report is to request that the Licensing Committee approve the proposed fees and charges policy for 2018-2019 as set out in Appendix 1.

**2.0 Recommendation**

- 2.1 The Licensing Committee is asked to approve the proposed Regulatory Services and Health Mobile Homes Act 2013, Fees and Charges Policy 2018-2019.

**3.0 Reasons for Recommendations**

- 3.1 In accordance with the Mobile Homes Act 2013, the Council must produce a Fees and Charges Policy for the licensing of residential caravan sites where it intends to recover the costs of the service that it provides. These fees and charges shall be reviewed annually to reflect the costs of administering the licences. A copy of the proposed Fees and Charges for 2018-2019 is attached in Appendix 1.

**4.0 Wards Affected**

- 4.1 All

**5.0 Local Ward Members**

- 5.1 All

**6.0 Policy Implications**

- 6.1 Contained within the report.

## **7.0 Financial Implications**

- 7.1 With respect to residential caravan sites, local authorities are able to set a range of fees and charges on a “cost recovery” only basis, as set out in guidance issued by the Secretary of State to local authorities. The changes in the 2018-19 fees (see table in para 10.3) is due to improved cost accounting and reflects the site size and resulting officer input it also reflects any changes to staffing and other associated costs.
- 7.2 In addition to the licensing function, the guidance also proposes additional fees and charges which can be set by local authorities, such as the depositing of site rules and the issuing, transferring or amending of site licences i.e. the more administrative functions of the regime.

## **8.0 Legal Implications**

- 8.1 Sections 3(2A) and 5A of the Caravan Sites and Control of Development Act 1960 (as amended) provide local authorities with the power to charge a fee for administering licences for “relevant protected sites.” In addition, section 1(3) MHA 2013 sets out that where ‘a local authority sets a fee it must inform the licence holder of the matters to which they have had regard in fixing the fee for the year in question.....’. Guidance from the Secretary of State recommends that this should be undertaken by adopting a policy for fees and charges; the proposed policy for 2018-19 is attached as Appendix 1.
- 8.3 There are currently 33 residential caravan sites, of various sizes, within the Borough which are included in the fees and charges regime. It is useful to note that sites cannot be licensed without first being granted planning and other relevant permissions. Thus this number of sites is subject to change throughout the year, as and when applicable sites gain planning permission.

## **9.0 Risk Management**

- 9.1 The MHA13 specifically empowers local authorities to set a local scheme of fees and charges on a cost recovery only basis.
- 9.2 As with all locally set fees and charges there is a risk of challenge by those to whom the fee relates. However, it is hoped that the transparent approach to fee setting and the consideration of national guidance on this matter will minimise this risk.

## **10.0 Background**

- 10.1 In accordance with the MHA13, the Council may charge a fee for issuing and administering licences for residential caravan sites. In addition, to the licensing of sites the Council may also set a fee for other functions such as maintaining a register of site rules and transferring and amending licences.
- 10.2 The Council is only able to set fees on a “cost recovery” only basis and the fees have been set using a time monitoring approach together with officer

knowledge of the times involved for carrying out the various functions to ensure that the setting of fees is as accurate as possible.

- 10.3 The following is a summary of the proposed fees and charges as set out in the Regulatory Services and Health, Fees and Charges Policy 2018-2019. The fees have been calculated for caravan sites as both an initial application fee and an annual fee together with last years fees and charges for reference;

Number of Pitches	2017-18 Application fee	2017-18 Annual fee	2018-19 Application Fee	2018-19 Annual Fee
< 10	£154.00	£154.00	£188.00	£188.00
< 20	£207.00	£207.00	£232.00	£232.00
< 30	£261.00	£261.00	£272.00	£272.00
< 40	£315.00	£315.00	£341.00	£341.00
< 50	£369.00	£369.00	£384.00	£384.00
> 50	£494.00	£494.00	£514.00	£514.00

Additional fees that can be levied on sites are proposed as follows and remain unchanged;

- Site Licence Transfer Fee - £99.00;
- Licence amendment (simple) - £99.00 (there is no fee if the change is imposed by the local authority);
- Application by the licensee to amendment of conditions - £297; and
- The deposit of site rules - £33.00

- 10.4 It is proposed that the fees and charges above will not be refundable in the event of any licence being withdrawn, refused or transferred.

## 11.0 Definitions under the Act

- 11.1 A mobile home residential caravan site is classed as a relevant protected site when designated by planning permission (or by historic caravan site licenses) for residential use only.

*N.B. Purely holiday/recreational parks (even if staff live there full time) and local authority owned parks are excluded from this new enforcement and fees/charging regime. However, holiday parks will still need to be licensed in accordance with existing legislation.*

## 12.0 Access to Information

The background papers relating to this report are included.

The Mobile Homes Act 2013 is available here  
<http://www.legislation.gov.uk/ukpga/2013/14/contents/enacted>

The Mobile Homes (Site Rules) (England) Regulation 2014 is available here  
<http://www.legislation.gov.uk/cy/uksi/2014/5/made>

Name: Nick Kelly

Designation: Environmental Protection Team Leader

Tel No: 01270 686720

Email: [nick.kelly@cheshireeast.gov.uk](mailto:nick.kelly@cheshireeast.gov.uk)

**Appendix 1**

Fees and charges policy document

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# Regulatory Services and Health

## Mobile Homes Act 2013 Fees and Charges Policy

2018-2019

## Contents

- 1 Executive Summary
- 2 Introduction
- 3 Setting of Fees and Charges
- 4 Establishing number of units (Caravans) per site
- 5 Licensing Fees
  - 5.1 Considerations
  - 5.2 Annual Fee
  - 5.3 New Licence Fee
  - 5.4 Transfer Fee
  - 5.5 Licence Amendments Fee
  - 5.6 Fee Combination
  - 5.7 Fees and Charges Payment Time-frames
- 6 Fees for Depositing Site Rules
- 7 Exemptions
- 8 Charges for Enforcement Notices
- 9 Review

## 1. Executive Summary

The Mobile Homes Act 2013 (MHA13) introduced new requirements for residential caravan sites only, which are referred to as Relevant Protected Sites in the legislation. It also amends the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 1983.

The MHA13 allows local authorities to charge for a range of licensing functions on a cost recovery basis and includes the following as chargeable functions;

- Licence applications;
- Annual licence fees;
- Licence amendments, when requested by the site owner;
- Transfer of a licence; and
- Deposit of site rules.

In order to be able to implement any fees and charges, Cheshire East Council must publish a fees and charges policy setting out all the relevant charges and how they have been calculated. This policy document is designed to fulfil the requirements of the legislation and enable Cheshire East Council to levy a charge for undertaking the licensing of residential caravan sites. In accordance with guidance, the Policy will be reviewed annually to ensure all the fees and charges are updated to cover costs of administering the licensing regime to the relevant sites. The Policy will be published and be available on request from members of the public.

The fees will not apply to sites which are classed as non-residential, i.e. those used for recreational or holiday use, or those which do not require a licence.

The MHA13 introduces fees and charges for the deposit of site rules and maintaining a fit and proper person register. However, the requirements in respect of the fit and proper person register have not yet been enacted and therefore there is no proposal to levy a charge at the present time.

## 2. Introduction

The MHA13 received royal assent on the 26th March 2013, and introduced important amendments to the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 1983. The legislation affects how councils licence residential caravan sites only. These sites are termed as “relevant protected sites” under the MHA13.

The MHA13 introduced the ability for Local Authorities to charge fees for a range of activities associated with regulating relevant protected sites. Local Authorities were able to implement the new fees and charges from the 1st April 2014. The range of site licensing functions which attract a charge include;

- Determining and issuing new site licences;
- Annual fee for licensing existing residential sites;
- Amendments to site licences;

- Transferring existing licences to new site owners;
- Deposit of site rules with the Council; and
- Costs associated with issuing Enforcement Notices on site owners.

The site owner or licensee is responsible for the payment of all associated fees, as set out above, however they are only allowed to pass the equivalent cost of the annual licensing fee to site residents.

### **3. Setting of Fees and Charges**

In setting the fees and charges relating to the MHA13 functions, the council has taken into account both national guidance and local policies. The aim being to ensure that the setting of the various fees is proportionate and transparent. In line with this, the MHA13 only allows councils to set fees and charges to recover the actual costs incurred.

In 2015, it was decided to set the fees based on the number of units per site, which are banded in to the following categories:

Less than	10 caravans
Less than	20 caravans
Less than	30 caravans
Less than	40 caravans
Less than	50 caravans
Greater than	50 caravans

This approach is based on using the number of units set out in planning permission for the site or as historically numbered in the site licence where there is no specific number in planning terms. A cost accounting system has been put in place to track future regulatory input and inform future reviews of this policy.

### **4. Establishing the units (caravans) per Site**

All sites have varying numbers and types of units (qualifying caravans); the most equitable method for setting fees would be to make it relative to the number of units on site. This is backed up by officer experience that more time is spent licensing and inspecting those sites with a greater number of units compared to those with only a few, however size alone is not the only factor to consider. Therefore, it is important to establish the definition of a unit and how the council determines the number of units per site.

For the purposes of this policy a unit (caravan) is classed as a single dwelling, which is capable of being moved from one place to another. This can be in the form of a traditional caravan, which is towed on the back of a vehicle or a chalet type dwelling normally made up of one or two parts which are joined together on site. The precise definition of a caravan can be found in Section 29(1) of the Caravan Sites and Control of Development act 1960 (as amended).

It is important for the setting of fees and charges to be able to determine the precise number of units on each site. All sites must have planning permission, deemed permission for those sites in existence with the enactment of the Caravan Sites and Control of Development Act 1960 or a Certificate of Lawful Use, which sets out the maximum number of permissible units; this will be the determining factor for calculating the number of units for each site. However, there may be occasions due to historic use where this information is not available with in the planning permission, in these instances calculations will be based on the number of units set out in the existing site licence.

## 5. Licensing Fees

### 5.1 Considerations

The following fees per band have been set using officer experience and previous time records as to the typical time taken for various activities, officer grades and on-costs, which include;

- Administration of licence fees;
- Pre and post inspection preparation and administration;
- Site inspection and where required re-inspection (including travelling time and mileage allowances at current rates);
- General administration and Licensing activities outside of the inspection related role (site liaison/advice, complaints and enquiries regarding caravan sites, maintaining files, electronic records and cost accounting);
- Training and research;
- Maintenance and development of ICT systems;
- Support and shared services on-costs e.g. HR and Legal
- Officer grade – Officers involved with caravan site licensing functions span Grades 5 (billing admin). However, officer grades 7 to 9 (licensing and inspection activities) is typical if the day to day activities . Therefore a midpoint grade 8 has been used to establish officer costs.

### 5.2 Annual Fee

The current fees (rounded to the nearest £) set for 2018/19 are;

<b>Number of pitches</b>	<b>cost</b>
<=10	£188.00
<=20	£232.00
<=30	£272.00
<=40	£341.00
<=50	£384.00
>50	£514.00

### 5.3 New Application Licence Fee

It is estimated that processing a new licence would not be considerably different to the work proposed for the annual licence and as such it will duplicate the annual licence fee. Therefore, the fees for processing all new licence applications will be as follows:

Number of pitches	cost
<=10	£188.00
<=20	£232.00
<=30	£272.00
<=40	£341.00
<=50	£384.00
>50	£514.00

### 5.4 Transfer Fee

A fee of £99.00 will be charged to cover this function, which is estimated to take 4 hours of officer time plus associated administration cost.

### 5.5 Licence Amendments Fee (application)

There is a statutory requirement to consult appropriate parties with regards to changes to any site licence conditions; this in turn has an impact on officer costs. Thus a midpoint of the banding scale for sites as set out previously will be used to set the licence amendment fee. These are set out below.

1. Licence amendment (simple) £99.00.  
Simple amendments are those requested by the site to change non condition related details e.g. site name change or changes to registered offices or mail addresses.
2. Licence (condition etc) amendments application fee £297.  
Changes to the condition(s) require resident and resident association consultation this greatly increases regulatory effort in the overseeing or undertaking of this role.
3. Changes imposed by Local Authority – no charges payable.

### 5.6 Fee Combination

New sites are required to apply for a site licence on a non refundable fee basis as this will cover the administration and verification of application documents, whether granted or refused. Where the licence is granted the annual fee is also payable within the same year.

In cases where both simple and condition amendments are requested the fees will be which ever is the greatest.

## **5.7 Fees and Charges Payment Timeframe**

Annual Fees and Charges will be levied from the 1<sup>st</sup> April each year and all other fees are per application or required function. The payment of fees will be in line with Council's current terms, which is 28 days from the date of the invoice. Where a fee becomes overdue, the Council may apply to a housing tribunal and a subsequent court order, if after three months the fees remain unpaid the Council may apply to the Housing Tribunal for an order to revoke the site licence.

## **6 Fees for Depositing Site Rules**

Site rules are different to site licence conditions in that they are neither created nor enforced by the council. They are a set of rules created by the site owner with which residents have to comply and which may reflect the site licence conditions but will also cover matters unrelated to licensing. The MHA13 amends the Mobile Homes Act 1983 and requires existing site rules to be updated and deposited with the Local Authority within a specified timescale.

Local Authorities will also be required to establish, keep up to date and publish a register of sites, which have deposited their site rules. In doing so, a Local Authority may levy a fee for the deposit, variation or deletion of site rules.

Once an administrative system is in place for holding and publishing site rules it is estimated that it will take approximately 1 hour of officer time per site, to undertake this function. It is therefore appropriate to set a fee of £33.00 (based on the appropriate hourly rate and associated administration) for the checking and depositing of site rules by site owners.

## **7 Exemptions**

Local Authorities can elect to exempt sites for reasons of risk and/or cost, scale etc.

- Any site that does not require a licence.
- Any site used exclusively for recreational type use.
- Any site exempted by legislation such as the Caravan Sites and Control of development Act 1960; Schedule 1.
- A recreational site where planning permission/Certificate of Lawful Use has been issued and the number of residential units on the site is 5% or less of the overall capacity.
- In accordance with the legislation Gypsy and Traveller sites owned by the Local Authority that do not require a site licence.

## **8 Charges for Enforcement Notices**

From the 1<sup>st</sup> April 2014, Section 9A of the MHA13 allows Local Authorities to serve statutory notices on site owners for non-compliance with licence conditions and to make a charge for that notice. These notices will set out how the site owner needs to comply with the relevant licence condition and the timescales involved. In accordance with the legislation, the site owner is not allowed to pass this charge on to the residents of the site.

In accordance with the amendments imposed by the MHA13, the council is entitled to recover costs associated with the service of a notice. This includes the costs incurred with inspections, preparing the notice and obtaining expert advice (including legal costs) and any interest the authority intends to charge. The demand for recovery is served with the notice and must provide a clear breakdown of the costs incurred. The right to recover costs is subject to appeal by the site owner in certain circumstances. These will therefore be calculated on a case by case basis.

This charge is only for the service of enforcement notices and costs associated with taking any action for non compliance with such a notice would be recoverable through the courts.

Where compliance with a notice is achieved through works in default then these costs would be passed on to the site owner.

## **9 Review**

This fees and charges policy will be published on the Cheshire East Council website. The fees detailed in this policy have been determined based on experience of dealing with mobile home site licensing and with consideration of the changes the MHA13 has introduced. In addition, at the time of producing this policy some elements of the licensing regime are still awaiting further regulation by government (fit and proper person), which may impact on the processes and time involved resulting in a revision to the proposed charges.

This policy will be revised no later than 31<sup>st</sup> March 2019 in line with the Council's fee setting process.