

Merton Council

Sustainable Communities Overview and Scrutiny Panel

8 March 2023

Supplementary agenda

5 Call in: Travellers Site - Review of Licence Fee
To follow

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Overview & Scrutiny Commission

Date: 8th March 2023

Call-in: Brickfield Road Traveller Site Annual Review of Weekly Licence Fee

Lead officer: John Morgan, Executive Director of Adult Social Care, Integrated Care & Public Health

Lead member: Councillor Andrew Judge, Cabinet Member for Housing and Sustainable Development

Contact officer: Steve Webb, Business Support and Relationship Manager

Recommendations:

- A. That the Panel review and consider the information provided in response to the call-in relating to the decision to increase the Brickfield Road Traveller Site Weekly Licence Fee.
 - B. That the Panel refer the decision back to the Executive Director of Adult Social Care, Integrated Care & Public Health for reconsideration, setting out the nature of the Panel's concerns; or
 - C. Decide not to refer the matter back to the Executive Director of Adult Social Care, Integrated Care & Public Health, in which case the original decision stands.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. On 10th February 2023, the Executive Director of Adult Social Care, Integrated Care & Public Health, in consultation with the Cabinet Member for Housing and Sustainable Development, made the decision that the weekly licence fee for the rental of a pitch on the council's travellers' site be increased by 7% from 3rd April 2023. (Appendix 1)
- 1.2. The decision was made in response to a report prepared by the Business Support and Relationship Manager, that set out the background and the reasons for the increase. (Appendix 2)
- 1.3. The decision was called-in on 20th February 2023 by Cllr Samantha MacArthur, Cllr Jil Hall and Cllr Anthony Fairclough.
- 1.4. The reasons for the call-in are:
 - respect for human rights and equalities
 - consideration and evaluation of alternatives

2 DETAILS

[Background information relating to the annual review of the weekly licence fee](#)

- 2.1. On 22nd March 2010, as part of a Large-Scale Voluntary Transfer, the council transferred its housing stock to Merton Priory Homes [MPH] (now Clarion Housing.)
- 2.2. The council retained ownership of the Brickfield Road Traveller Site and entered into a 30-year management agreement for MPH to manage the site on behalf of the council. The management agreement forms part of the legally binding Stock Transfer Agreement.
- 2.3. Under Sections 6 and 12 of the management agreement, it says

*6.1 The Council will set a weekly licence fee to be payable by the occupants of the Site provided that such fee shall be **no less** than such amount as may be recommended by the Company [MPH] (acting reasonably) from time to time*

6.2 Subject to clause 6.1, the licence fee shall be reviewed at least annually by the Council and notified to the Company.

12.1 The Company shall be entitled to collect and retain any charges payable by the occupants under their occupancy agreements including the licence fees and water charges.
- 2.4. As part of the Stock Transfer offer, the council made a number of “promises” to its residents. One of these 91 promises was a 5-year promise to not increase rents by more than the standard Homes and Communities Agency (HCA) formula in use at the time: RPI + 0.5% + £2.08 per week. This promise was applied to the traveller site as well as the former council homes that transferred to MPH.
- 2.5. Once the 5-year limitation had expired, there was still a need for MPH/Clarion to continue to seek a review of the weekly licence fee. Accordingly, each year the current HCA/Government Regulator formula has been adopted. This included years 2016 to 2019 where the rent setting formula at that time was a 1% decrease in the weekly rents.
- 2.6. In 2019 the Government changed the formula to be used from April 2020 to CPI+1.0%. This remained the formula for increases in April 2021 and April 2022.
- 2.7. In September 2022 the CPI was 10.1%. If the formula had remained unchanged this would have resulted in an increase of 11.1%.
- 2.8. The Government consulted with registered providers and, in December 2022, agreed a below inflation increase capped at 7%, to be applied from April 2023.

Respect for human rights and equalities

- 2.9. The impact of the Government’s rent setting formula is national and is applied to all social rented tenants, including groups with protected characteristics.
- 2.10. The decision was not accompanied by a specific Equalities Impact Assessment due to it being the implementation of a national formula, which

in itself had its own impact assessment. That said, to ensure compliance and transparency an EIA has been completed and is attached as Appendix 3

- 2.11. On completion of the EIA, we assessed that there is a potential negative impact with regards to Race and Socio-economic status
- 2.12. The mitigating actions are:
- (i) Romany Gypsies and Irish Travellers are protected against race discrimination. This is because Romany Gypsies and Irish Travellers are ethnic groups under the Equality Act. All households on the Traveller site are affected equally by this increase regardless of their ethnic group.
 - (ii) Any households experiencing financial hardship can continue to apply for Housing Benefit/ Universal Credit for the rent of their pitch and can seek support from Clarion Housing if they have difficulties.

Consideration and evaluation of alternatives

- 2.13. As set out in 2.1 to 2.8 above, the council has entered into a legal contract with Clarion Housing whereby the weekly licence fee increase “shall be no less than such amount as may be recommended by Clarion Housing (acting reasonably) from time to time”.
- 2.14. Given that the increase implemented each year was in accordance with the Government’s rent setting formula, and this year the recommended increase is also in accordance with the Government’s rent setting formula, the recommendation is considered to be reasonable. (Appendix 4)
- 2.15. Households experiencing financial hardship continue to be entitled to claim Housing Benefit / Universal Credit, which will help mitigate any negative impact. The increased costs are therefore subsidised through the benefits system as are increases elsewhere in the social housing sector.
- 2.16. An increase lower than the 7% recommended by Clarion Housing would not be compliant with management agreement, so is not recommended.
- 2.17. An increase higher than 7% has not been requested by Clarion Housing and would not benefit the residents or the council.

3 ALTERNATIVE OPTIONS

- 3.1. The travellers’ site management agreement states that the weekly licence fee “shall be no less than such amount as may be recommended by Clarion Housing (acting reasonably) from time to time”. The proposed increase of 7% is considered to be reasonable as this is the same rate that will be applied to the tenants in Clarion Housing stock and it follows the Government’s current rent setting formula.
- 3.2. Alternative licence fee increase of less than 7% would not be in accordance with the management agreement and so is not recommended.
- 3.3. An increase above 7% would not be in accordance with the Government formula and would not benefit the residents or the council.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. Clarion Housing have recommended the new licence fee and consulted the council on the level of the new licence fee and seeks the council's agreement.
- 4.2. Clarion Housing or the council has not consulted directly with the residents concerned. This is because the level has been set by the Government / Regulator and the national formula has not been calculated locally.
- 4.3. The Government had consulted widely on the rent increase prior to reaching a decision.

5 TIMETABLE

- 5.1. The setting of the licence fee needs to be agreed before April 2023.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None for the council. The income from the weekly licence fee is collected and retained by Clarion Housing to cover the cost of meeting their obligations and commitments under the management agreement.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Under the management agreement, which forms part of the stock transfer agreement, the council has legal responsibility for reviewing and setting the weekly licence fee, based on the amount recommended by Clarion Housing (acting reasonably). The council will be in breach of the transfer agreement if it fails to fulfil this responsibility.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. The impact has been considered as part of the EIA attached.
- 8.2. There is a potential negative impact with regards to Race and Socio-economic status. Mitigating actions are
 - (i) Romany Gypsies and Irish Travellers are protected against race discrimination. This is because Romany Gypsies and Irish Travellers are ethnic groups under the Equality Act. All households on the Traveller site are affected equally by this increase regardless of their ethnic group.
 - (ii) Any households experiencing financial hardship can apply for Housing Benefit for the rent of their pitch and can seek support from Clarion Housing if they have difficulties.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purpose of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. The level of weekly licence fee increase proposed will enable Clarion Housing to manage the site effectively, including carrying out routine repairs and maintenance and complying with Health & Safety regulations.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Appendix 1 - Original Non-Key Decision by Executive Director of Adult Social Care, Integrated Care & Public Health

Appendix 2 – Original report to the Executive Director of Adult Social Care, Integrated Care & Public Health and Cabinet Member for Housing and Sustainable Development

Appendix 3 - Equality Impact Assessment

Appendix 4 - Consultation with Clarion Housing.

12 BACKGROUND PAPERS

12.1.

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NON-KEY DECISION TAKEN BY AN OFFICER UNDER DELEGATED AUTHORITY

This form should be used to record and publish **non key delegated executive decisions**. Guidance is available on the intranet or from the democratic services team 0208 545 3616.

1. Subject

Travellers' site – review of weekly licence fee

2. Reason for exemption (if any)

3. Decision maker

John Morgan, Executive Director of Adult Social Care, Integrated Care & Public Health

4. Date of Decision

10/02/2023

5. Decision

That the weekly licence fee for the rental of a pitch on the council's travellers' site be increased by 7% from 3rd April 2023

6. Reason for decision

Under the management agreement with Clarion Housing the council has an obligation to set the weekly licence fee and must review this at least annually, based on a recommendation from Clarion Housing. Clarion Housing recommends an increase of 7%, this being the standard increase for Clarion Housing homes generally and is in compliance with the government's formula for rent setting of 7%.

7. Alternative options considered and why rejected

Different levels of increase were rejected as not being in accordance with the management agreement and of no benefit to the council or the residents

8. Documents relied on

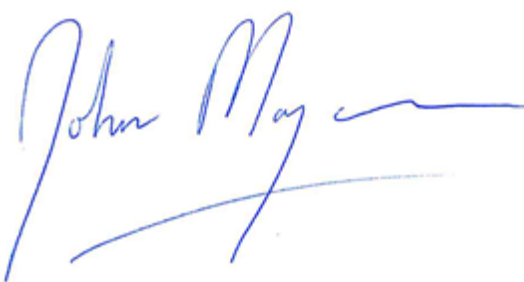
Report to John Morgan, Executive Director of Adult Social Care, Integrated Care & Public Health dated 9th February 2023

9. Declarations of Interest

If the decision maker has an interest it must be declared. Not all interests will preclude the decision maker from proceeding but failing to declare an interest could be a breach of the Staff Code of Conduct. Check with the Monitoring Officer for further advice. (Constitution Part 5B paragraph 7)

None

10. Signature

A handwritten signature in blue ink, appearing to read "John May", is written inside a rectangular box. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

11. Publication of this decision and call in provision

Send this form and any documents listed in section 8 to democratic.services@merton.gov.uk for publication. Publication will take place within two days. The call-in deadline will be at Noon on the third working day following publication.

IMPORTANT – this decision should not be implemented until the call-in period has elapsed.

Chief Officer: Executive Director of Adult Social Care, Integrated Care & Public Health

Date: 9th February 2023

Agenda item:

Wards: Wimbledon Park

Subject: Travellers' site – Annual review of weekly licence fee

Lead officer: John Morgan, Executive Director of Adult Social Care, Integrated Care & Public Health

Lead member: Councillor Andrew Judge, Cabinet Member for Housing and Sustainable Development

Forward Plan reference number:

Contact officer: Steve Webb, steve.webb@merton.gov.uk 020 8545 4709

Recommendations:

- A. That the weekly licence fee for the rental of a pitch on the council's travellers' site be increased by 7% from £102.33 to £109.49 on Monday 3rd April 2023.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report seeks the decision of the Executive Director of Adult Social Care, Integrated Care & Public Health, in consultation with the Cabinet Member for Housing and Sustainable Development to increase the weekly licence fee for a pitch on the Council's travellers site by 7% from 3rd April 2023, as recommended by the Council's Managing Agents, Clarion Housing.

2 DETAILS

- 2.1. Ownership of the travellers' site at Brickfield Road, SW19 was retained by the council at stock transfer. The council entered into a management agreement for the site with Merton Priory Homes (now Clarion Housing) and this forms part of the legal transfer agreement.
- 2.2. Under the management agreement the weekly licence fee for renting a pitch on the site is to be set by the council and reviewed at least annually. The licence fee shall be no less than the level recommended by Clarion Housing (acting reasonably) from time to time.
- 2.3. Clarion Housing have recommended that the licence fee be increased by 7% from April 2023, increasing the weekly fee from £102.33 to £109.49.
- 2.4. The 7% increase to be applied by Clarion Housing has been calculated in accordance with the Government's current rent setting formula. Since stock transfer the standard increase (or reduction), as applicable to social housing, has been applied each year.

- 2.5. At the time of the stock transfer in March 2010 there was a 5-year promise made to not increase rents by more than the standard HCA formula in use at the time: RPI + 0.5% + £2.08 per week. The time limitations on this promise have expired.

3 ALTERNATIVE OPTIONS

- 3.1. The travellers' site management agreement states that the weekly licence fee "shall be no less than such amount as may be recommended by Clarion Housing (acting reasonably) from time to time". The proposed increase of 7% is considered to be reasonable as this is the same rate that will be applied to the tenants in Clarion Housing stock and it follows the Government's current rent setting formula. Alternative licence fee increase of less than 7% would not be in accordance with the management agreement and so is not recommended. An increase above 7% would not be in accordance with the Government formula and would not benefit the residents or the council.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. Clarion Housing have recommended the new licence fee and consulted the council on the level of the new licence fee and seeks the council's agreement.

5 TIMETABLE

- 5.1. The new level of licence fee will be applied from April 2023.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None for the council. The income from the weekly licence fee is collected and retained by Clarion Housing to cover the cost of meeting their obligations and commitments under the management agreement.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Under the management agreement, which forms part of the stock transfer management agreement, the council has legal responsibility for reviewing and setting the weekly licence fee, based on the amount recommended by Clarion Housing (acting reasonably). The council will be in breach of the transfer agreement if it fails to fulfil this responsibility.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None for the purpose of this report.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purpose of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. The level of weekly licence fee increase proposed will enable Clarion Housing to manage the site effectively, including carrying out routine repairs and maintenance and complying with Health & Safety regulations.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

11.1 None

12 BACKGROUND PAPERS

12.1. Travellers' Site Management Agreement (twenty-second schedule to the Housing Stock Transfer Agreement).

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Equality Analysis



Please refer to the guidance for carrying out Equality Impact Assessments is available on the intranet
Text in blue is intended to provide guidance – you can delete this from your final version.

What are the proposals being assessed?	Annual Increase to Traveller Site Licence Fee Increase
Which Department/ Division has the responsibility for this?	Adult Social Care, Integrated Care & Public Health

Stage 1: Overview	
Name and job title of lead officer	Steve Webb – Business Support and Relationship Manager
1. What are the aims, objectives and desired outcomes of your proposal? (Also explain proposals e.g. reduction/removal of service, deletion of posts, changing criteria etc)	A 7% increase in the Brickfield Road Traveller Site Licence Fee, is in accordance with the government's rent setting formula, as recommended by the Council's managing agents, Clarion Housing. This is lower than the 10.1% inflation rate in September 2022.
2. How does this contribute to the council's corporate priorities?	<p>Ownership of the travellers' site at Brickfield Road, SW19 was retained by the council at stock transfer in March 2010. The council entered into a management agreement for the site with Merton Priory Homes (now Clarion Housing) and this forms part of the legal transfer agreement.</p> <p>The council aims to ensure every resident lives in well managed and good quality accommodation. The increase supports Clarion's ability to carry out the terms of the management agreement.</p> <p>This proposal ensures the Council's compliance with a legal contract.</p> <p>In order for the Council to comply with the management agreement, there needs to be an annual review of the Licence Fee.</p>
3. Who will be affected by this proposal? For example who are	The 15 households at Brickfield Road Traveller Site.

<p>the external/internal customers, communities, partners, stakeholders, the workforce etc.</p>	
<p>4. Is the responsibility shared with another department, authority or organisation? If so, who are the partners and who has overall responsibility?</p>	<p>The decision is shared with Clarion Housing.</p> <p><i>Under the management agreement the weekly licence fee for renting a pitch on the site is to be set by the council and reviewed at least annually. The licence fee shall be no less than the level recommended by Clarion Housing (acting reasonably) from time to time.</i></p> <p>Clarion Housing have recommended that the licence fee be increased by 7% from April 2023, increasing the weekly fee from £102.33 to £109.49</p> <p>The 7% increase to be applied by Clarion Housing has been calculated in accordance with the Government's current rent setting formula. Since stock transfer the standard increase (or reduction), as applicable to social housing, has been applied each year.</p>

Stage 2: Collecting evidence/ data

5. What evidence have you considered as part of this assessment?

Provide details of the information you have reviewed to determine the impact your proposal would have on the protected characteristics (equality groups).

15 households are affected on site who receive housing management support from Clarion Housing.

We do not have data on employment rates.

The application of the rent increase is in accordance with national guidance which in itself was the outcome of widespread consultation and an impact assessment.

Stage 3: Assessing impact and analysis

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6. From the evidence you have considered, what areas of concern have you identified regarding the potential negative and positive impact on one or more protected characteristics (equality groups)?

Protected characteristic (equality group)	Tick which applies		Tick which applies		Reason Briefly explain what positive or negative impact has been identified
	Positive impact		Potential negative impact		
	Yes	No	Yes	No	
Age					
Disability					
Gender Reassignment					
Marriage and Civil Partnership					
Pregnancy and Maternity					
Race			x		Some Gypsies and Travellers are protected against discrimination on the basis of their ethnic origins. The residents could have lower employment rates due to discrimination.
Religion/ belief					
Sex (Gender)					

Sexual orientation					
Socio-economic status			x		Some households claim Housing Benefit / Universal Credit

7. If you have identified a negative impact, how do you plan to mitigate it?

Romany Gypsies and Irish Travellers are protected against race discrimination. This is because Romany Gypsies and Irish Travellers are ethnic groups under the Equality Act. All households on the Traveller site are affected equally by this increase regardless of their ethnic group.

Any households experiencing financial hardship can apply for Housing Benefit for the rent of their pitch and can seek support from Clarion Housing if they have difficulties.

Stage 4: Conclusion of the Equality Analysis

8. Which of the following statements best describe the outcome of the EA (Tick one box only)

Please refer to the guidance for carrying out Equality Impact Assessments is available on the intranet for further information about these outcomes and what they mean for your proposal

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Outcome 1 – The EA has not identified any potential for discrimination or negative impact and all opportunities to promote equality are being addressed. **No changes are required.**

Outcome 2 – The EA has identified adjustments to remove negative impact or to better promote equality. **Actions you propose to take to do this should be included in the Action Plan.**

Outcome 3 – The EA has identified some potential for negative impact or some missed opportunities to promote equality and it may not be possible to mitigate this fully. **If you propose to continue with proposals you must include the justification for this in Section 10 below, and include actions you propose to take to remove negative impact or to better promote equality in the Action Plan. You must ensure that your proposed action is in line with the PSED to have ‘due regard’ and you are advised to seek Legal Advice.**

Outcome 4 – The EA shows actual or potential unlawful discrimination. **Stop and rethink your proposals.**

Stage 5: Improvement Action Pan

9. Equality Analysis Improvement Action Plan template – Making adjustments for negative impact

This action plan should be completed after the analysis and should outline action(s) to be taken to mitigate the potential negative impact identified (expanding on information provided in Section 7 above).

Negative impact/ gap in information identified in the Equality Analysis	Action required to mitigate	How will you know this is achieved? e.g. performance measure/ target)	By when	Existing or additional resources?	Lead Officer	Action added to divisional/ team plan?
Race and Socio-economics. These households may have higher unemployment rates. Page 18	Ensure households have access to the Housing Benefit they are entitled to	Residents benefit from the use of Clarion’s Tenancy Sustainment Service. As part of the management agreement, Clarion Housing have a responsibility to monitor the conduct of the licences, including rent accounts and take-up of housing benefit and will take preventative actions to enable residents to stay in their homes.	ongoing	Existing	Steve Webb	No

Note that the full impact of the decision may only be known after the proposals have been implemented; therefore it is important the effective monitoring is in place to assess the impact.

Stage 6: Reporting outcomes

10. Summary of the equality analysis

This section can also be used in your decision making reports (CMT/Cabinet/etc) but you must also attach the assessment to the report, or provide a hyperlink

This Equality Analysis has resulted in an Outcome [2](#) Assessment

Some Gypsies and Travellers are protected against discrimination on the basis of their ethnic origins. The residents could have lower employment rates due to discrimination.

Some households claim Housing Benefit and their eligibility will be unaffected by this increase.

Stage 7: Sign off by Director/ Head of Service

Assessment completed by	Steve Webb – Business Support and Relationship Manager	Signature: S Webb	Date: 28/02/23
Improvement action plan signed off by Director/ Head of Service	John Morgan, Executive Director of Adult Social Care, Integrated Care & Public Health	Signature: J Morgan	Date: 28/02/23

Steve Webb

Subject: FW: Newly published decision: Travellers' site - review of weekly licence fee -- URGENT

From: Haroon Bashir <Haroon.Bashir@clarionhg.com>
Sent: 06 February 2023 10:12
To: Steve Webb <Steve.Webb@merton.gov.uk>
Cc: Elliot Brunton <Elliot.Brunton@merton.gov.uk>; Jacqueline Thomas <Jacqueline.Thomas@clarionhg.com>
Subject: RE: Newly published decision: Travellers' site - review of weekly licence fee -- URGENT

Hi Steve

Thank you yes, just got back from a short break.

The increase for the caravan site will be 7% in line with social housing rent increase and direction from Regulator.

Regards

Haroon Bashir – Head of Rents and Service Charges
Clarion Housing Group
6 More London Place
Tooley Street
London, SE1 2DA
M:07715038938

From: Steve Webb <Steve.Webb@merton.gov.uk>
Sent: 03 February 2023 12:03
To: Haroon Bashir <Haroon.Bashir@clarionhg.com>
Cc: Elliot Brunton <Elliot.Brunton@merton.gov.uk>; Jacqueline Thomas <Jacqueline.Thomas@clarionhg.com>
Subject: RE: Newly published decision: Travellers' site - review of weekly licence fee -- URGENT

Hi Haroon,

Hope all's well with you.

As ever, we will need to get any rent increase for Brickfield Road Traveller Site approved by the Council.

Could you please let me know what the proposed increase is this year and the formula used. I will then update the usual report and seek approval.

Many thanks and regards

Steve Webb
Business Support and Relationship Manager
Merton Housing Needs and Strategy
020 8545 4709

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