

<b>Committee(s):</b>	<b>Date(s):</b>
Epping Forest and Commons	16 January 2017
<b>Subject:</b> Epping Forest Licence and Produce Charges 2017/18 SEF 04/17	<b>Public</b>
<b>Report of:</b> Superintendent of Epping Forest	<b>For Decision</b>
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### Summary

This report updates your Committee on the performance of charges levied for the management of various and produce sales, Forest licences and event fees at Epping Forest and seeks approval for the proposed charges for 2017/18.

The licensing of activity on Forest Land and sales of produce has raised a total of £106,287 so far in the 2016/17 financial year. Produce sales have generated £10,659; horse riding licences raised £17,287; the licensing of regulatory activity realised £35,700 while fairs and circuses produced £42,640

In line with the pricing formula contained within the Byelaws for the Regulation of Horseriding (2003) it is proposed that Horse Riding Licence Fees are raised by the Retail Price Index (RPI) using the 12 month figure set in October 2016 of 0.7%. Produce charges will remain unchanged as they currently reflect the market value which is projected to remain static over the future year.

In line with the Service Based Review targets for increased income between 2015/16 – 2017/18, a range of proposed increases from 1.2 % CPI; 5% and 10% are presented with a recommendation that charges for all other licences in 2017/18 be raised by a figure of 10%..

### Recommendation(s)

#### Members are asked to:

- Approve the proposed charges for 2017/18

## **Main Report**

### **Background**

1. Requests are received for various services requiring the temporary use of Forest Land from the many properties that border, or are enclosed by, the Forest. These properties often have no direct access to the frontage, side or rear of their curtilages or space to place skips, site scaffolding or temporarily store building materials during repair or development works. The Conservators normally levy a charge on such activities. When a request is received an inspection is carried out by a Forest Keeper to ascertain if a licence should be granted for use of Forest Land.
2. Consideration is always taken as to the Conservators' duties under the Epping Forest Acts 1878 and 1880 and whether any damage to Forest Land may occur and if that is the case; either a refundable deposit or bond is taken to cover any repairs to damage of Forest Land, or in some cases the licence request is refused.
3. Charges for the use of Forest Land have been benchmarked by comparison with charges levied by surrounding local authorities. The charges are shown on the Epping Forest website.
4. Land management activities have the potential to generate a range of marketable products. In 2015 we commenced selling cordwood to fuelwood merchants. Sales for this in 2016/17, along with smaller commissions of wood, are £5,133
5. Bags of logs have once again been sold to the public at the View as well as Swedish lanterns. Income since they went on sale in October (for winter season) is £811.
6. Charcoal is sold from the View in summer for barbeques and is supplied by colleagues at The Commons. Sales of bags raised £191. Antlers are sold and raised £123 to date.
7. The income from filming and photography is the subject of a separate report made annually by the Department to the Open Spaces Committee.

## Current Position

8. The income generated from log sales, venison sales and miscellaneous charges provides a regular, steady income for very little outlay or risk. At the time of writing this has amounted to

<b>Table 1:</b>	<b>2016/17</b>	
	<b>Income to date</b>	
<b>Produce</b>		
Venison	£ 2,173	
Beef	£ 2,228	
Wood	£ 5,944	
Charcoal	£ 191	
Antlers	£ 123	
		£10,659
<b>Horse riding licences</b>		£17,287
<b>Local regulatory licences</b> (excluding filming and photography)		£35,700
<b>TOTAL</b>		<b>£63,646</b>

9. Sales, marketing and levels of production have increased for all produce in 2016/17 which combined with the 10% increase show a total increase in takings of £5,586 compared to the same period in 2015/16.

**Table 2: 2015/16 and 2016/17 income totals and percentage**

	<b>2015/16</b>	<b>% charge</b>	<b>2016/17</b>	<b>Actual total</b>
	<b>total</b>	<b>increase</b>	<b>total</b>	<b>increase</b>
<b>Produce</b>	£ 8,540	10	£10,659	25%
<b>Horse Riding</b>	£ 15,408	0.7	£17,287	12%
<b>Licencing</b>	£ 34,112	10	£ 35,700	4.5%
<b>TOTAL</b>	<b>£ 58,060</b>		<b>£ 63,646</b>	<b>9.6%</b>

## Options

10. Three options as outlined in Table 3 (Appendix 1), have been identified for your Committee's consideration.
11. **Option 1** – Involves an increase at the current Consumer Price Increase (CPI) for the year of 1.2%, which would enable charges to keep pace with inflation. **This is not recommended.**
12. **Option 2** – An increase of 50% applied to all regulatory licences charges. **This is not recommended.**
13. **Option 3** – an increase of 10% applied to all regulatory licence charges. **This is recommended.**

## Proposals

14. In line with the Service Based Review targets for 2015/16 to 2017/18, which require savings totalling £505,000 at Epping Forest, it is proposed that general

licence charges for 2017/18, except for horse riding licences, are increased by 10%.

15. A list of proposed charges for 2017/18 is shown in Table 2 below. Licensing fees, horse-riding licences, have been rounded to the nearest fifty pence. While not directly comparable, by way of comparison in the local area the London Borough of Waltham Forest charge £60/14-days for skips, £390/30-days for scaffolding and £700/30-days for compounds that are on the verge, pavement or road.
16. The 10% increase is in excess of current CPI increases but reflects historical under-pricing of the charge levels.
17. Products such as firewood, charcoal, venison, beef and antlers are proposed to be maintained at market value remains stable and an increase will move beyond local competitor pricing.
18. It is proposed that sales of cordwood to commercial firewood merchants will continue to be sold through commercial bidding processes to achieve the current market rate
19. It is proposed that the licence fee for Horseriding be increased by a RPI of 0.7% which is the maximum permitted under the Additional Byelaws for the Regulation of Horseriding.

### **Corporate & Strategic Implications**

20. The issuing of licences for the use of Forest land supports the City Together Strategy theme 'A World Class City which protects, promotes and enhances our environment. This is linked to the associated Open Spaces Strategic Aim "Provide safe, secure and accessible Open Spaces and services for the benefit of London and the Nation".
21. The sale of wood and venison supports the City Together Strategy theme 'A World Class City which protects, promotes and enhances our environment. **This is linked to the associated Open Spaces Departmental Objective "Ensure that measures to promote sustainability, biodiversity and heritage are embedded in the Department's work"**

### **Implications**

22. **Financial Implications:** The City's Financial Regulations require all departments to recover full costs when setting charges to persons or external organisations, or submit reason to the appropriate service Committee when that objective is not met. It is, therefore, at the discretion of individual spending Committees to determine the actual level of fees and charges relative to the services that they provide, after taking into account local considerations and priorities.
23. The total raised by licenced activity in Epping Forest so far in 2016/17 is £35,700 (excluding filming). Horse riding licences generated £17,287 .

24. The income from the sale of produce for 2016/17 is to date £10,660 comprising sales of wood, venison, beef, charcoal and antlers.
25. It is proposed to raise licence charges and fees by 10% to reflect the outcome of the recent Service Based Review, which aims to recover a further £10,000 in income from all licencing and events activity.
26. **Legal Implications – Horseriding Licensing:** Horse riding on Epping Forest is regulated under sections 9 and 10 of the City of London (Various Powers) Act 1990 and by the Additional Byelaws for the Regulation of Horse Riding allowed on 14 May 2003. The Conservators may make reasonable charges for the riding or exercising of horses, by reference to the reasonable cost of the maintenance of ways designated for horses, and the reasonable cost of providing the regulatory regime. Any increases to the charges are limited to no more than the increase in the Retail Prices Index for the period that has elapsed since the charges were last fixed. The Conservators shall take all reasonable steps to notify the public of the revised charges not less than fourteen days before they take effect

#### Sales of produce from land management activities

27. **Legal Implications – sales of produce from land management activities:** Section 33(1)(i) of the Epping Forest Act 1878 empowers the Conservators, “To fell, cut, lop and manage in due course the timber and other trees, pollards and underwoods, and to sell and dispose of the timber cuttings and loppings, and to receive the proceeds...”
28. Trading that is carried on by a charity in the course of carrying out a primary purpose of the charity is known as “primary purpose trading”. Trading that is ancillary to a charity’s primary purpose is also legally part of a charity’s primary purpose trading. The sale of produce as a by-product of land management activities by the Epping Forest charity would therefore constitute primary purpose trading. This means that the charity may trade more or less freely in pursuit of its charitable objectives. Profits may be exempt from tax if entirely used to support the charity’s aims, and there is no requirement to set up a subsidiary trading company.
29. In its role as trustee of the Epping Forest charity the City, acting by the Conservators, is under a fiduciary duty to act exclusively in the best interests of the charity. This will normally mean obtaining the best price for produce that can be achieved in the market. However it may be appropriate in some cases to donate produce, or sell it at a discount, where this is an effective way of using the charity’s resources to further its charitable purposes, or is otherwise in the charity’s best interests.
30. **Legal implications – Events and activities:** Section 33(1)(xiii) of the Epping Forest Act 1878 empowers the Conservators to set apart such parts of the Forest as they think fit for the use of the inhabitants to play at sports. Section 76(1)(b) of the Public Health Acts Amendment Act 1907 allows the Conservators to set apart any such part of the Forest as may be fixed for the purpose of any game or recreation, and to exclude the public from the part set apart while it is in actual use for that purpose; and under section 56(5) of the Public Health Act 1925 the Conservators may charge reasonable sums for the

use thereof. Under section 8 of the City of London (Various Powers) Act 1977 the Conservators may (subject to certain constraints) provide parking places for vehicles and make reasonable charges for their use.

31. The City of London Corporation (Open Spaces) Bill presently before Parliament would, if enacted in its present form, provide greater legal clarity over the powers available in relation to the holding of events, and the control of commercial activity on Forest land, and allow for express safeguards to be incorporated. This would, for example, permit the introduction of a licensing scheme for fitness instructors using the Forest.
32. **Legal Implications – ‘Works’ licences** : The granting of personal licences does not constitute alienation of Forest Land for the purposes of the Epping Forest Act 1878 and is not therefore prohibited so long as the Forest is preserved. Regulating such temporary uses is considered to be the best way of preserving the Forest and avoids any possibility of any prescriptive rights being acquired. As above, the Conservators must generally ensure that any licence granted is on the best terms reasonably obtainable for the Epping Forest charity, or is otherwise in the charity’s best interests.
33. Licensing various 3rd party temporary activities that the City is willing to permit upon the Forest should ensure that the City retains full and proper control of the Forest and able to prevent misuse.

## **Conclusion**

34. The licensing of activities on Forest land is necessary to ensure no possessory rights are conceded and that the use of Forest Land is properly regulated.
35. A system of charges is in place that recognises the cost to the City for administering its licensing activity and which is benchmarked with comparable local organisations. Charges are revised on an annual basis.
36. Above inflation increases to licensing charges are necessary to enable the City of London to help manage the reduction in deficit funding of £505,000 between 2015/16 and 2017/18.
37. No change in the produce charges is proposed as they currently reflect market values. Increases in the horse riding licence fees are limited to no more than the increase in the Retail Prices Index for the period which is 0.7%.

## **Appendices**

Appendix 1 - Table 3 – Proposed Charges 2017/18

Appendix 2 – EQIA

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