

<b>Committee(s):</b>	<b>Date(s):</b>
Epping Forest Consultative: For Discussion Epping Forest and Commons: For Decision	23 10 2019 18 11 2019
<b>Subject:</b> Epping Forest Licence, Produce and Sports Charges (SEF 40/19b)	<b>Public</b>
<b>Report of:</b> Director of Open Spaces	<b>For Decision</b>
<b>Report Author:</b> Jacqueline Eggleston - Head of Visitor Services	

### Summary

This report updates your Committee on the performance of charges levied for licensed activities, produce sales and formal sports in the last full financial year 2018/19.

In 2018/19 the licensing of activity on Forest land raised a total of £266,397 of which £188,473 was mixed regulatory licences, £37,284 was from fairs and circuses and £40,640 from photography and filming.

The sale of produce raised a total £15,348 while the licensing of Horse riding raised £10,276.

Charges for formal sports across 2018/19 raised a total of £379,176.59 with Association Football income in 2017/18 totalling £66,684.79 and earnings from Golf reaching £312,491.80.

Proposals are presented for a price increase of 2.6% in line either with the Retail Price Index figure (August 2019) or otherwise increased due to benchmarking and review in line with market competition.

### Recommendations

Members are asked to:

- Note any comments by the Consultative Committee on the proposed charges for 2020/21 as itemised in Appendix A and C and on the continued subsidy for association football
- Approve the proposed charges for 2020/21 as itemised in Appendix A and C and the continued subsidy for association football

## Main Report

### Background

1. This report encompasses a number of different activities on Forest Land for which a charge is levied. The charges made to legally record the use and generally seek to reflect the costs incurred by the City of London in administering and enabling the activity and for reinvestment into the management of the Forest in accordance with the City Corporation financial regulations.
2. The use of Forest Land for siting of equipment or for certain activities requires a licence. Licences are administered through a steering group of officers to ensure that all relevant sections and staff are consulted before a decision is made and to ensure there is an equitable decision-making process for any customer.
3. All activities are regulated with due regard to the Conservators' duties under the Epping Forest Acts 1878 and 1880 and any other relevant statutory provisions.
4. By-products of land management activity include beef, venison and wood. These are sold both as wholesale and retail products with the income re-invested into the management of the Forest.

### Current Position

5. Licensing activity on Forest Land raised £266,397 in 2018/19
6. The income from Forest produce in 2018/19 has provided an income totalling £15,348 comprising:

Produce	Income
Venison	£ 9541
Beef	£ 1878
Hay	£ 1080
Wood	£ 2849

7. Horse Riding licences brought in an income of £10,276.
8. The regulatory licences achieved £188,473, with an additional £37,284 from fairs and circuses and £40,640 for photography and filming.
9. The end of the football season for 2018/19 achieved a total income of £66,684.79.
10. Golf income at Chingford Golf Course achieved a total gross income of £312,491.80. This is broken down as:

Green Fees	£270,418
Equipment Sales	£13,532
Drinks Sales	£5,522
Equipment Hire	£23,018

11. This was the third year of in-house management of golf bookings. Profit was increased this year compared with 2017/18 by around £46,000. The end of year net profit figure in 2018/19 was £74,750.

## Options

12. Three options as outlined in Appendix A and C are offered for your committee's consideration:
  - 12.1 Option 1 – To increase licence and event fee charges at the Retail Price Index figure of 2.6%. It is proposed that the licence fee for horse riding also be increased by RPI of 2.6% which is the maximum permitted under the Additional Byelaws for the Regulation of Horse Riding. It is also proposed that charges for private hire of land (compounds) be increased above inflation levels. These increases are shown in Appendix A. Also, to increase football charges in as proposed in Appendix C, above inflationary levels but in line with benchmarking of similar facilities. **This is recommended.**
  - 12.2 Option 2 - To keep charges as they are. This would be in effect a price cut whilst inflationary increases would still apply to our own expenses. **This is not recommended.**
  - 12.3 Option 3 - To increase licence and produce charges above inflationary levels. Charges have been increased annually by RPI and compare with the market level. Increasing charges above market level could make our products less saleable. **This is not recommended.**

## Proposals

### Licencing Applications

13. A new licencing application form and scheme of charges was agreed at the Epping Forest and Commons Committee in November 2017. All the licencing information, pricing, terms and conditions are publicly available on the website and the process ensures appropriate licences and charges are administered in an equitable and transparent manner.
14. The experience gained in administering licences over the past two years has highlighted some charges that needed further clarification and alteration. These changes are shown in the table in Appendix A and include small alterations to wording and categories for coaching and one- off competition events. An above inflation increase has been applied to compounds to better reflect the loss of amenity value occasioned by this type of use of the Forest.

### Football charges

15. Football on Wanstead Flats remains popular with similar levels of play maintained each year. Despite some amendments to pricing over recent years Wanstead Flats remain the cheapest pitches to hire in the area.
16. Football on Wanstead Flats in common with other Local Authority football provision continues to run at a deficit. The annual deficit amounts to in the

region of -£125,000 each year. This equates to an average of just under 50% subsidy per game played.

17. It is proposed that all fees are increased by an above inflationary rate of 5%. This will bring the pitch hire to a level more in line with comparable sites in the sub-region. Prices remain at the lowest which reflect the pitch standards but move towards reducing the level of subsidy. Combined with the shorter season being implemented this year the overall increase per game is nearer to 20%.
18. Appendix C outlines the current season charging at neighbouring football sites compared with Wanstead Flats. It also shows the proposed 5% uplift in the hire charges for 2020/21.

### **Golf fees**

19. Golf fees have not been amended in this financial year as they remain at the right amount for the current market. Profit is increasing year on year at Chingford Golf Course which reflects that the course remains good value in comparison with local competition, as shown in the benchmarking exercise in Appendix B.

### **Corporate & Strategic Implications**

20. These charges support the Corporate Plan Policy aims and priorities
  - 20.1 Contribute to a flourishing society
  - 20.2 Support a thriving economy
  - 20.3 Shape outstanding environments

### **Implications**

#### **Financial**

21. City Corporation Financial regulations provide that ‘When determining fees and charges to persons or external organisations, all departments should recover full costs, or submit reasons to the appropriate service Committee when that objective is not met.’
22. Full cost recovery on football charges cannot be achieved while major Local Authority providers continue to subsidise the provision of football. The City Corporation has achieved parity on charges but is unable to recover the full cost of providing this service.

#### **Legal**

##### Horse riding

23. 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

24. 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...”
25. 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.
26. In its role as trustee of the Epping Forest Charitable Trust, the City Corporation 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.

#### Events and Activities

27. 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.
28. Under section 8 of the City of London (Various Powers) Act 1977 the Conservators may provide facilities and services for the purpose of providing or improving opportunities for the enjoyment of the Forest by the public, which would include the provision of instructors or guides, and parking places for vehicles, and may make reasonable charges for those facilities and services.
29. Section 7 of the City of London Corporation (Open Spaces) Act 2018 now provides additional powers to hold and charge for events on Forest Land, including film production, having regard to an agreed events policy. Section 10 and the Schedule to that Act also enable the Conservators, following consultation, to make a licensing scheme for the purposes of controlling activity in the Forest carried on for commercial gain, including fitness classes.

The licence fee may cover the reasonable administrative costs incurred in connection with such applications, together with such additional charge as the Conservators consider to be an appropriate contribution towards the costs incurred by them in connection with the open space.

#### 'Works' licences

30. 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.

#### **Property**

31. Licensing various 3rd party temporary activities that the City Corporation is willing to permit upon the Forest should ensure that the City Corporation retains full and proper control of the Forest and able to prevent misuse.

#### **Charity**

32. Epping Forest is a registered charity (number 232990). Charity Law obliges Members to ensure that the decisions they take in relation to the Charity must be taken in the best interests of the Charity.

#### **Consultative Committee**

33. The Consultative Committee supported the combination of Retail Price Index increases underpinned by benchmarked revisions. Members raised the question of licence evasion and were reassured that representative checks were made across the year to reduce the potential for licence evasion.

#### **Conclusion**

34. The City Corporation Epping Forest continues to provide excellent value for money recreational opportunities. The charging proposals ensure that as a charity our expenses incurred due to third party use of our land are recouped and reinvested into the maintenance of the Forest.

#### **Appendices**

- Appendix A – Current and proposed licence charges
- Appendix B – Golf Course Green Fees Price Comparison
- Appendix C - Football benchmarking and proposed fee increases

#### **Background Papers:**

Epping Forest Licence and Produce Charges 2019/20 November 2019.

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