

Committee(s)	Dated:
Epping Forest and Commons Committee	18012021
Subject: Licences, sports, wayleaves and produce fees and charges (SEF 03/21)	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	4,5,12
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	
What is the source of Funding?	
Has this Funding Source been agreed with the Chamberlain's Department?	
Report of: Director of Open Spaces	For Decision
Report author: Jacqueline Eggleston	

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 2019/20.

In 2019/20 the licensing of activity on Forest land raised a total of £190,850 of which £97,521 was mixed regulatory licences, £22,425 was from fairs and circuses and £70,904 from photography and filming.

The sale of produce raised a total £31,174 while the licensing of Horse riding raised £9,559.

Charges for formal sports across 2019/20 raised a total of £364,054 with Association Football income in 2019/20 totalling £62,874 and earnings from Golf reaching £301,180. All income from produce, licences and charges is fully reinvested in the management of Epping Forest.

Reflecting previous years of above inflation increases, proposals are presented for a price increase of 1.3% in line either with the Retail Price Index figure (November 2020) or otherwise increased due to benchmarking and review in line with market competition or to reflect the cost to the charity for the activity.

Recommendation(s)

Members are asked to:

- Approve the proposed charges for 2021/22 as itemised in Appendix A and C, staff discounts 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 are 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 under the Open Spaces and Epping Forest Events Policies. 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 £190,850 in 2019/20
6. The income from Forest produce in 2019/20 has provided an income totalling £31,174 comprising:

<u>Produce</u>	<u>Income</u>
Venison	£ 8,417
Beef	£ 17,491
Hay	£ 680
Wood	£ 4,586

7. **Horse Riding** licences brought in an income of £9,559.
8. The regulatory licences achieved £97,521, with an additional £22,425 from fairs and circuses and £70,904 for photography and filming.
9. The end of the football season for 2019/20 achieved a total income of £62,874.
10. **Golf** income at Chingford Golf Course achieved a total gross income of £301,180. This is broken down as:

Green Fees	£262,338
Equipment Sales	£13,479
Drinks Sales	£5,896

Equipment Hire £19,466

11. The end of year net profit figure for Golf in 2019/20 was £40,994.

Proposals

When setting fees and charges, officers will consider the following before making their proposals to Committee:

- The RPI rate on a specified and consistent release date
- The benchmarking of the charges and quality of provision with those of neighbouring facilities, which in many instances are our competitors. In some instances, we will therefore not benchmark against our own properties
- The budget requirement to generate additional income to reduce expenditure savings
- Work towards reducing subsidy levels
- Work towards attaining full cost recovery, recognising that staffing, equipment and material costs may have increased greater than RPI.

Licencing Applications

12. 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.

Football charges

13. 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.
14. 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.
15. It is proposed that all fees are increased by the inflationary rate of 1.3% (rounded up where needed). This reflects the difficult season held in 2020 and allows teams time to recover.
16. Appendix C outlines the current season charging at neighbouring football sites compared with Wanstead Flats. It also shows the proposed 1.3% uplift in the hire charges for 2021/22.

Golf fees

17. 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.

Site Compounds/ Excavation

18. Car park hire charges and storage fees have been increased by inflation levels only. However, site compounds have been separated out in this category with a new charging scheme that better reflects the cost to the charity for staff time and loss of amenity. A new clarification that this includes new excavation and trenching has been added to cover works undertaken by utility companies that can have significant impacts on the amenity of the Forest. The new charges are laid out in Appendix A and include fees for additional staff time and consultants time required for site inspections, reinstatement and other associated costs.

Wayleaves

19. Wayleaves are charged for private motorgate access across Forest land. For consistency these are now added to this report and are included in the scheme of charges outlined in Appendix A.

Staff Discounts

20. Staff benefit from 25% discount on some retail items in the visitor centre shop. Any discounted items still generate a profit for the charity generally in the range of 25% profit instead of 50%. Occasional sales of beef and venison (when stock is too high for storage facilities) are reduced for staff at between 10% and 25%. Staff also benefit from firewood sales that are lower than similar retail products.

Options

21. Three options as outlined in Appendix A and C are offered for your committee's consideration:
 - a. Option 1 – To increase licence and event fee charges at the Retail Price Index figure of 1.3%. It is proposed that the licence fee for horse riding also be increased by RPI of 1.3% 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 and trenching) be amended to show the full cost to the charity of these works. These increases are shown in Appendix A. Additional income will help offset the need to reduce expenditure arising from local risk budget reduction of around 12% **This is recommended.**
 - b. 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.**
 - c. Option 3 - To increase licence and produce charges above inflationary levels. Following previous years of above inflation increases charges have been increased annually by RPI and compare with the market level and reflect the difficult year experienced by the recreation sector in 2020.

Increasing charges above market level could make our products less saleable. **This is not recommended.**

Key Data

22. **Licensing activity** on Forest Land raised £190,850 in 2019/20.
23. Charges for formal sports across 2019/20 raised a total of £364,054.

Corporate & Strategic implications

24. These charges support the Corporate Plan Policy aims and priorities
 - a. Contribute to a flourishing society
 - b. Support a thriving economy
 - c. Shape outstanding environments

Financial

25. 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.’
26. 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

27. 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

28. 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...”
29. 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.

30. 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

31. 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.
32. 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.
33. 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

34. 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

35. 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

36. 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.

Resource implications

37. Fees and charges, with the exception of football which remains subsidised, reflect the whole cost to the charity and seek to as a minimum whole cost recovery.

Risk implications

38. The alteration of the charging structure for compounds and trenching will in some cases be a significant additional cost to, in the main, utility providers. However, the charges reflect the true cost to the charity of work done on the land by private commercial utility companies.

Equalities implications

39. Charitable and not for profit organisations receive a 50% discount on most fees and charges. This allows smaller and large charitable organisations and community groups to use the Forest at a lower cost whilst still meeting the core costs to the Epping Forest charity from the impact of that activity.
40. An initial screening exercise of the equality impact of this decision has been undertaken by the City Corporation. At this stage, it is considered that there are no negative impacts on the protected equality groups.

Climate implications

41. Licences seek to control the number, location and suitability of activities in Epping Forest to protect its environment. Sustainability criteria is included in heads of terms for larger events.

Security implications

42. Licences ensure that activities held on Epping Forest land comply with all health, safety and other relevant legislation and enables basic due diligence to be undertaken on the licensee.
43. The Open Spaces Events Policy does not allow:
 - Events which could be damaging to community relations
 - Events associated with extremist organisations or proscribed organisations
 - Events which are considered discriminatory or offensive
 - Illegal activities

Conclusion

44. The City Corporation Epping Forest continues to provide excellent value for money recreational opportunities. The charging proposals ensure that as a charity where possible our expenses incurred due to third party use of our land are recouped and reinvested into the maintenance of the Forest and that activities can be checked to ensure relevant safety and legislative measures are met.

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 2020/21 November 2019.

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