

<b>Committee(s):</b> Epping Forest and Commons – For decision	<b>Dated:</b> 25/01/2024
<b>Subject:</b> Licences, and produce fees and charges for 2023/24 (SEF 02/24)	<b>Public</b>
<b>Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?</b>	<b>2,3,4</b>
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>N</b>
<b>If so, how much?</b>	<b>£ N/A</b>
<b>What is the source of Funding?</b>	<b>N/A</b>
<b>Has this Funding Source been agreed with the Chamberlain’s Department?</b>	<b>N/A</b>
<b>Report of:</b> Bob Roberts Interim Director of Environment	<b>For Decision</b>
<b>Report author:</b> Brian Pallett, Epping Forest	

### Summary

This report makes proposals for the setting of fees and charges for activities in Epping Forest for the forthcoming financial year of 2024/25.

This report also updates your Committee on the performance of charges levied for licensed activities, produce sales, formal sports, and car park charges in the last full financial year 2022/23.

In 2022/23 the licensing of activities and product sales on Forest Land raised a total of £545,219

Car park charges raised a total of £408,271 net. There is no proposal to increase car park charging in this report.

Charges for formal sports across 2022/23 raised a total of £483,091 with Association Football and Golf earnings income totalling £46,239 and £436,852 respectively.

All income from produce, licences and charges is fully reinvested in the management of Epping Forest with all income credited to the charity’s local risk budget.

Proposals are presented for a price increase of 6.1% for the financial year 2024/25, based on the RPI for the month of October (2023) as has been the basis for uplifts in previous years.

### Recommendation

Members are asked to:

- Note the income generated in 2022/23 from charged activities in Epping Forest and

- Agree the proposed licence fees for 2024/25 as itemised in Appendix 2.
- To delegate powers to the Superintendent to on occasion make minor variation to these fees in respect of filming and other licensing where appropriate depending on scale and impact upon the Forest, the public and location, in order to secure reasonable financial return to the Charity.

## **Main Report**

### **Background**

1. This report encompasses several 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 Event Policy parts one and two.
3. 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.
4. 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.
5. 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**

6. Licensing activity on Forest Land and produce raised £545,219, in 2022/23 as detailed in Appendix 1.
7. In addition, car park charges raised a total of £408,271 net of commission.
8. A total of £1,457,412 was generated through charging in 2022/23.
9. A review in to football charges is currently taking place and potential changes to football charges will be brought before your committee in March 2024.

### **Options**

10. Option 1 – To increase licence, sports and produce charges at figure of 6.1% as detailed in Appendix 2. It is proposed that the licence fee for horse riding also be increased by 6.1%. The RPI figure is the maximum permitted under

the Additional Byelaws for the Regulation of Horse Riding. Agree to delegate powers to the Superintendent to on occasion make minor variation to these fees in respect of filming and other licensing where appropriate depending on scale and impact upon the Forest, the public and location, in order to secure reasonable financial return to the Charity. **This is recommended.**

11. Option 2 - To keep charges as they are. This would be in effect a real terms price cut whilst inflationary increases would still apply to our own expenses. This effective reduction in income would need to be absorbed by Epping Forest's local risk budget. **This is not recommended.**

## Proposals

12. Proposed charges for 2024/25 are itemised in detail in Appendix 2. The list of charges has been made as complete as possible to ensure all areas of charging are included. When setting fees and charges, officers in the natural environment charities considered the following. Upon your Committee's approval these charges will be published on the City Of London's website and be available by hardcopy from the Epping Forest Offices.

- The RPI rate is normally used to set the increase percentage. Given current inflationary levels and cost of living, a figure of 6.1% has been settled on across Epping Forest and the Commons charities based on the October RPI figure published by the Office for National Statistics.
- The benchmarking of the charges and quality of provision is with those of neighbouring facilities, which in many instances are our competitors.
- Charges are made as far as possible to attain full cost recovery, recognising that staffing, equipment, and material costs may have increased greater than 6.1% in some cases.

13. Car parking charges on Epping Forest will not increase this year and will remain the same based on benchmarking figures when first introduced. Any future uplifting on charges will be considered periodically due to the cost of implementing changes to signage in the car parks showing details of charge and other associated communications and timeframes required.

14. The placing of skips on Forest land mainly on or adjacent to wayleaves or frontages is proposed to be ceased. The justification for this is that it is an essentially inappropriate use of Forest land, not provided for within governing legislation, but also to eliminate the associated risk of fire, pollution incidents, tree root compaction and tree damage incidents where skips are stored. Charges for skip use was previously £116.00 per week.

15. Fees for fairgrounds and circuses have been added to Appendix 2 for clarity.

16. Delegate powers to the Superintendent to on occasion make minor variation to these fees in respect of filming and other licensing where appropriate

depending on scale and impact upon the Forest, the public and location, in order to secure reasonable financial return to the Charity.

## **Key Data**

17. Licensing activity on Forest Land raised £493,324 in 2022/23.
18. Charges for formal sports across 2022/23 raised a total of £483,090 gross. Of this, the golf course made a net profit of £185,659 on its local risk budget.
19. Car parking charges raised £ 408,271 net of commission.

## **Corporate & Strategic Implications**

### Strategic implications

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

### **Financial implications**

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. The Duty to recover costs must be subject to any other overriding statutory provision.
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 Implications**

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.
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.
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.

## **Property Implications**

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.
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 Implications**

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.

## **Resource Implications**

33. 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**

34. 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**

35. 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.
36. Providing consistency in charging and decision making through the licencing of activities provides equality of opportunity to individuals and groups applying to use the Forest.

## **Climate implications**

37. 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**

38. 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.

39. The Open Spaces Events Policy does not allow:

- i. Events which could be damaging to community relations
- ii. Events associated with extremist organisations or proscribed organisations
- iii. Events which are considered discriminatory or offensive
- iv. Illegal activities

## **Conclusion**

43. 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 1 – Income generated 2022/23

Appendix 2 – Proposed charges 2024/25, with 2023/24 figures alongside for reference.

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