

South Lakeland District Council
Lake Administration Committee

Friday, 5 October 2018

**Application to amend encroachment status -
Boathouse, Watersedge, Storrs Park,
Windermere**

Portfolio: Cllr David Williams – Chairman of Lake Administration Committee
Report from: Director of Policy and Resources (Monitoring Officer)
Report Author: Anthea Lowe – Solicitor to the Council
Wards: N/A
Forward Plan: N/A

1.0 Expected Outcome

1.1 Members of Lake Administration Committee will consider the application relating to the encroachment at Watersedge, Storrs Park, Windermere for it to be charged on a residential basis rather than a commercial basis.

2.0 Recommendation

2.1 It is recommended that Lake Administration Committee grant the application to alter the charging rate relating to the Boathouse, Watersedge, Storrs Park, Windermere from a commercial charging basis to a residential basis.

3.0 Background and Proposals

3.1 On 18 August 2018, a written application was received by Lambert Smith Hampton in respect of the Boathouse at Watersedge, Storrs Park, Windermere. This application was to seek to alter the charging basis of the encroachment from commercial use to residential use. A copy of the application (and supporting documents) is attached at **Appendix 1**.

Note – Appendix 1 is subject to the provisions of Section 100B (2) of the Local Government Act 1972 and excluded from inspection by members of the public as the appendix contains information described in Schedule 12A of the Act as follows:-

- Paragraph 2 – Information which is likely to reveal the identity of an individual
- Paragraph 3 – Information relating to the financial or business affairs of any particular person.

3.2 The premise of the application is that the property was transferred into a family trust for inheritance tax purposes but the property is being used, and always has been used, as family property. In support of the application, the applicants have provided a signed statement confirming the use of the property, bank statements and utility bills issued in the name of the trust and a tax return for the Trust for 2015/16 showing a nil return.

- 3.3 Attached at **Appendix 2** is the guidance that was approved by Lake Administration Committee in April 2018. Members will see that for Council Tax/rates purposes, the property is classified as being a small business. All of the bank statements and utility bills are addressed to a property in Leeds which is the address of one of the Trustees.
- 3.4 Members are asked to consider the application and decide whether or not the property should be treated as a residential encroachment for charging purposes. Members will also see that the applicant has stated it is unfair that the charging has been at commercial rates since the Trust was created in 2013.
- 3.5 For clarity, the Council has always taken the approach that any property held as Trust will be charged at commercial rates. It is only in April 2018 that a decision was made to allow those who may hold the property on Trust but use it as a residential property to make an application. It is clear from the document attached at **Appendix B**, that any decision to change the charging status to residential will take effect from the 1st day of the month following the decision having been made.

4.0 **Consultation**

- 4.1 There is no requirement for formal consultation.

5.0 **Alternative Options**

- 5.1 As set out in **Appendix B**, Members can choose to approve the application, refuse the application or defer the matter for consideration at the next meeting pending receipt of additional documents.

6.0 **Links to Council Priorities**

- 6.1 The matters in this report are indirectly linked to making South Lakeland the best place to live, work and explore.

7.0 **Implications**

Financial, Resources and Procurement

- 7.1 If the application is granted, the change in charging rate would amount to a loss of income in the sum of £181.73 per annum.

Human Resources

- 7.2 There are no human resources impacts associated with this report.

Legal

- 7.3 The provision of encroachments on the lake is a discretionary service. The Council is entitled to adopt any charging policy that it considers appropriate. It is a matter for Members to consider whether or not to approve the application.

Health, Social, Economic and Environmental

- 7.4 Have you completed a Health, Social, Economic and Environmental Impact Assessment? No
- 7.5 If you have not completed an Impact Assessment, please explain your reasons: Changing the charging rate is considered to have a neutral effect on Health, Social, Economic and Environmental impacts.

Equality and Diversity

- 7.7 Have you completed an Equality Impact Analysis? Yes (attached at Appendix *) No
- 7.8 If you have not completed an Impact Assessment, please explain your reasons: Changing the charging rate is considered to have a neutral effect on Equality and diversity matters.

Risk

Risk	Consequence	Controls required
Customers may be dissatisfied if they feel that they are being charged at the incorrect rate.	Loss of income arising from lost business.	Members to consider the application and decide on the appropriate charging rate to be applied in relation to the encroachment.

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Application to alter the charging status of an encroachment Subject to the provisions of Section 100B (2) of the Local Government Act 1972, copies of this report are excluded from inspection by members of the public as the report contains information as described in Schedule 12A of the Act as follows:- <ul style="list-style-type: none">- Information which is likely to reveal the identity of an individual (Paragraph 2)- Information relating to the financial or business affairs of any particular person (Paragraph 3)
2	Guidance note in relation to charging of encroachments

Background Documents Available

Name of Background document	Where it is available
Lake Administration Minute LA/44 (2017/18)	http://democracy.southlakeland.gov.uk/documents/g4316/Printed%20minutes%20Friday%2013-Apr-2018%2010.00%20Lake%20Administration%20Committee.pdf?T=1

Tracking Information

Signed off by	Date sent
Legal Services	Report Author
Section 151 Officer	17-09-18
Monitoring Officer	17-09-18
SMT	N/A

Circulated to	Date sent
Assistant Director	N/A
Human Resources Manager	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	N/A
Ward Councillor(s)	N/A

Circulated to	Date sent
Committee	05-10-18
Executive (Cabinet)	N/A
Council	N/A