

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

### CABINET - 11 JUNE 2013

Title of report	<b>EFFECTIVE ASSET MANAGEMENT - REVIEW OF LEASES AND LICENCES</b>
Key Decision	a) Financial No b) Community Yes
Contacts	Councillor Nick Rushton 01530 412059 <a href="mailto:nicholas.rushton@nwleicestershire.gov.uk">nicholas.rushton@nwleicestershire.gov.uk</a>  Chief Executive 01530 454500 <a href="mailto:christine.fisher@nwleicestershire.gov.uk">christine.fisher@nwleicestershire.gov.uk</a>  Head of Finance 01530 454520 <a href="mailto:ray.bowmer@nwleicestershire.gov.uk">ray.bowmer@nwleicestershire.gov.uk</a>
Purpose of report	To seek cabinet approval to progress the recommendations of the Policy Development Group for the implementation of the review of access licences.
Reason for Decision	If the recommendations for implementing the review are approved it will give the District Council the opportunity to control the use of its assets and formalise any access rights granted. It will also give the District Council the opportunity to prevent issues of land sterilisation and ensure that residents using the council's land who have the benefit of a licence are treated equitably in terms of the fee.
Council Priorities	Value for Money
Implications	
Financial/Staff	The 2013/14 revenue budget includes £18,125 income from access licences. If the recommendations of the Policy Development Group are implemented other budget savings will need to be identified.
Link to relevant CAT	Not applicable
Risk Management	A risk register is available in Appendix B of the report to Cabinet of 31 October 2012.

Equalities Impact Assessment	This review will ensure that any licence fees that are applied by the District are fair and consistent to the general public.
Human Rights	None discernable from the report
Transformational Government	Not applicable
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	As report author the report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	Ward Members
Background papers	None. Previous reports attached as appendices.
Recommendations	<p><b>THAT CABINET:</b></p> <p><b>(1) CONFIRMS ALL LAND BEING ACCESSED IS OWNED BY THE COUNCIL.</b></p> <p><b>(2) CONFIRMS THAT THE COUNCIL'S PERMISSION IS REQUIRED TO GAIN ACCESS OVER THIS LAND</b></p> <p><b>(3) AGREES THAT OFFICERS TAKE THE NECESSARY ACTIONS SET OUT IN PARAGRAPH 3 OF THE REPORT TO POLICY DEVELOPMENT GROUP REPORT ON 23 MAY 2013 TO FORMALISE ACCESS ARRANGEMENTS WITH REGARD TO THE 183 PROPERTIES IDENTIFIED AS BEING RELATIVELY STRAIGHTFORWARD TO DEAL WITH;</b></p> <p><b>(4) REQUESTS CONSULTATION BE UNDERTAKEN REGARDING THE REMAINING PROPERTIES WHERE WARD MEMBERS HAD PROVIDED ADDITIONAL INFORMATION AND THAT AUTHORITY BE DELEGATED TO THE HEAD OF FINANCE TO TAKE THE APPROPRIATE ACTION FOLLOWING CONSULTATION WITH THE CORPORATE PORTFOLIOHOLDER.</b></p> <p><b>(5) AGREES THAT WHERE LICENCES ARE REQUIRED, A £35.00 CHARGED BE APPLIED FOR BOTH DOMESTIC AND NON-DOMESTIC PROPERTIES.</b></p>

## **1.0 BACKGROUND**

- 1.1 Going back many years concerns have been raised by service areas that a significant number of Council-owned plots have been subjected to unauthorised access. There are other sites however where residents have formalised access by way of an annual license or have paid for the access when they purchased properties under the Right to Buy Scheme. The Council has statutory best value duties to be consistent with other land-owning councils and to treat people fairly.
- 1.2 Cabinet approved the impementation of a review of Access Licences at its meeting on 31 October 2012. A letter was sent to all 38 Ward Members and all Town and Parish Councils on 12 November 2012 detailing the reasons for the review and how it was going to be implemented. There was very little response to this letter apart from a request for further information regarding residents affected from Cllr Legrys. Following this request lists of all wards and sites affected were sent out to all Ward Members.
- 1.3 Letters were sent out to residents affected by the review in the week commencing 21 January 2013. A total of 196 letters were sent out, however 27 letters were retained in light of the complaints being received.
- 1.4 The following responses were received from residents:

### **Enquiries by telephone or e-mail**

A total of 46 were received. Around a half were from people seeking further information before they filled in the response slips and the remainder explained that they did not require a licence. Further information was provided as necessary and people were asked to return the response slips to say whether they required a licence or not.

### **Response slips**

A total of 55 were received: 29 people stating that they did not require a licence and 26 stating that they did require a licence.

### **Enquiries through Ward Councillors**

These were primarily requesting more information about the review and how their residents were affected. In many cases the letter and ward by ward information provided in November 2012 was provided again.

### **An enquiry through the local MP requesting more information regarding a resident in Ibstock.**

- 1.5 There were also several media enquiries and the Council issued statements as appropriate including its intention to review with residents the access licences required.

## **2.0 MOTION AT COUNCIL 26 FEBRUARY 2013**

- 2.1 As a result of this feedback a motion was passed at Council meeting on the 26<sup>th</sup> February 2013 as follows: -.

*“Many residents who access their properties through Council owned land have been sent letters requesting payment for a license. Our understanding is that the license charges that are being requested are £20 for walking over and £90 for driving over Council land. The vast majority of these residents have been accessing their property for many years, in some cases decades, over Council land with no charges.*

*We would therefore propose:-*

*The issue is referred to Policy Development Group as soon as possible for reconsideration including the following areas;*

*1 – That the Council remove the new proposed charges of £90 to residents for accessing their properties by car and the new proposed charges of £20 for accessing their properties by foot and notify them accordingly;*

*And:*

*2 – That in areas where residents have been accessing their properties for many years without charge the Council re-examine whether licenses are really necessary;*

*And:*

*3 – That where the Council can reasonably demonstrate that assets need to be protected by obtaining licenses we would suggest that these should be offered to residents at a nominal charge for rights of way”.*

### **3.0 RECOMMENDATIONS OF POLICY DEVELOPMENT GROUP**

- 3.1 The Policy Development Group met on 19 March 2013 and 23 May 2013. The reports and minutes are attached as Appendices 1 to 4 of this report.
- 3.2 Following the meeting of the Policy Development Group on 19 March 2013, officers met to address the proposals put forward by Members for detailed site by site reviews
- 3.3 The objectives of the reviews were as follows:
- Confirm the ownership of land across which access was being gained.
  - Confirm that the Council's permission was required to gain access
  - Provide fair and equitable solutions to residents' and businesses' access needs
  - Propose fair and equitable charges where formal access licences were required
- 3.4 Ward Members were engaged to determine whether there was additional local knowledge not known to officers. This information was discussed with Ward Members, between 7th and 17th May 2013 and agreement sought on the next steps. The outcomes of the reviews were reported back to Policy Development Group at its meeting on 23 May 2013.
- 3.5 The Legal Department has confirmed that all of the land identified in the list of properties provided by Property Services, over which access is being gained is owned by the Council

- 3.6 The reviews confirmed that existing licence holders also required permission to access over Council owned land.
- 3.7 As requested by Policy Development Group land lease arrangements were excluded from the reviews. It is assumed that the Cabinet recommendations relating to these sites remain unchanged.
- 3.8 The outcomes of the reviews of 253 properties (27 existing and 226 new properties) can be summarised as follows:
- For 77 Council dwellings access rights can be clarified by amending the tenancy agreements. A review of tenancy agreements is already planned for 2014.
  - The access rights to 51 former Council dwellings purchased under Right To Buy were not formalised at the time of transfer and will now be confirmed in a letter from the Council.
  - The Council will confirm in writing to 55 private residents that it is content for them to continue to gain access across its land and will offer to discuss formalising the arrangements if so desired by residents.
  - The meetings held with Ward Members in particular helped to identify remaining properties where there was a need for further consultation with the occupiers and in some cases the respective Parish Council before concluding the reviews. Officers will in these cases continue to work with Ward Members to agree which of the above actions would be most appropriate.
- 3.9 In summary the Policy Development Group has made the following recommendations:

Cabinet be recommended to:-

- (1) Confirm all land being accessed is owned by the Council.
- (2) Confirm that the Council's permission is required to gain access over this land
- (3) Agree that officers take the necessary actions set out in paragraph 3 of the report to formalise access arrangements with regard to the 183 properties identified as being relatively straightforward to deal with;
- (4) Agree that where licences are required, a £35.00 charged be applied for both domestic and non domestic properties.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The 2013/14 Revenue Budget includes an income budget for access licences of £18,125 based on the proposals in the 31 October 2012 Cabinet Report. If the Policy Development Group's recommendations are implemented the actual income will depend on the number of licences in place but is unlikely to be more than £2,000.

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## POLICY DEVELOPMENT GROUP – 19 MARCH 2013

Title of report	<b>EFFECTIVE ASSET MANAGEMENT – ACCESS LICENCES</b>
Contacts	<p>Councillor Richard Blunt 01530 454510 <a href="mailto:richard.blunt@nwleicestershire.gov.uk">richard.blunt@nwleicestershire.gov.uk</a></p> <p>Councillor Nick Rushton 01530 412059 <a href="mailto:nicholas.rushton@nwleicestershire.gov.uk">nicholas.rushton@nwleicestershire.gov.uk</a></p> <p>Chief Executive 01530 454500 <a href="mailto:christine.fisher@nwleicestershire.gov.uk">christine.fisher@nwleicestershire.gov.uk</a></p> <p>Head of Finance 01530 454520 <a href="mailto:ray.bowmer@nwleicestershire.gov.uk">ray.bowmer@nwleicestershire.gov.uk</a></p>
Purpose of report	For Policy Development Group to receive information which will enable it to make recommendations to Cabinet regarding the implementation of the review of access licences.
Council Priorities	Value for Money
Implications:	
Financial/Staff	The approved 2013/14 budget includes £8,000 income for existing licences and a further estimate of £17,000 from new licences. Should the Policy Development Group make recommendations which have financial implications these would need to be considered by Cabinet.
Link to relevant CAT	Not applicable.
Risk Management	A risk register was included in the Cabinet Report of 31 October 2012.
Equalities Impact Assessment	Considered and noted in the report
Human Rights	Considered and None identified.
Transformational Government	None identified.

Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	As report author the report is satisfactory.
Comments of Monitoring Officer	The report is satisfactory
Consultees	As detailed in the report.
Background papers	Cabinet Report and Minutes 31 October 2012 – Attached at Appendix 2
Recommendations	<b>THAT POLICY DEVELOPMENT GROUP MAKES RECOMMENDATIONS TO CABINET IF IT CONSIDERS THAT ANY CHANGES ARE NEEDED TO THE CABINET DECISION OF 31 OCTOBER 2012.</b>

## 1.0 BACKGROUND

- 1.1 Going back many years concerns have been raised by service areas that a significant number of Council-owned plots have been subjected to unauthorised access. There are other sites however where residents have formalised access by way of an annual license or have paid for the access when they purchased properties under the Right to Buy Scheme. The Council has statutory best value duties to be consistent with other land-owning councils and to treat people fairly.
- 1.2 In September 2009, the Council's Asset Management Group considered these concerns and agreed that a License Working Group should be established, consisting of Officers from Property, Housing, Street Management, Leisure and Legal Services.

## 2.0 PROCESS FOLLOWED

- 2.1 Details of the review process are set out in Appendix 1.
- 2.2 The group initially focused on the impact of unregulated access across Council-owned land from a property perspective and came to the following conclusions:
- The vast majority of the sites were originally retained by the District to provide a specific function including Council-owned garage sites, recreational land, access to allotments, car parks and open space.
  - These sites were never intended to provide open access to the adjoining properties.
  - Although the sites are accessed via the adopted highway, they do not form part of the adopted highway and certain sites are private land.
  - A number of the sites have some form of development potential and therefore they should be protected, as far as was practicably possible from any potential land sterilisation issues, including prescriptive rights.

- In these circumstances could include development potential from the creation of additional recreation land, car parking, residential or commercial development and disposal for a capital receipt.
- The existing licence holders or residents that have paid for the access rights via the Right to Buy process were being treated differently and there were a number of instances where licence holders paying a fee lived adjacent to non-licence holders who were not paying a fee
- The fees paid by the existing licence holders have not been reviewed for a number of years.
- The licence fee should be at a level to compensate for any administrative costs incurred by the Council.
- That all licences should be consistent to the type of access required and the fees charged should be at an open market value and in line with any private landowner charges and in consideration of the Councils fair and equitable duty.

2.3 A report from the Licence Working Group was presented to Corporate Leadership Team (CLT) in October 2011. The report recommended that the Council regularised the existing licences, formalised access arrangements where unauthorised access was being gained over Council-owned land and the appropriate level of fees be determined by an independent valuer. The recommendations were agreed subject to the Working Group providing detailed information of the residents affected, the process, timescales and the associated risks. A further report was presented to CLT in August 2012 detailing the process. It was agreed that a report should be presented to Strategy Group with the recommendation that consent be given progress the review. A report was presented to the Strategy Group on 14 August 2012 where it was agreed that a report should be presented to Cabinet for consideration.

2.4 Cabinet considered the matter and approved the implementation of the recommendations of the review at its meeting on 31 October 2012. The report and the minutes are attached at Appendix 2.

### **3.0 PREPARATIONS FOR IMPLEMENTING THE REVIEW**

3.1 Following Cabinet approval, a letter was sent to all 38 Ward Members and all Town and Parish Councils on 12 November 2012 detailing the reasons for the review and how it was going to be implemented, attached at Appendix 3. There was very little response to this letter apart from a request for further information regarding residents affected from Cllr Legrys. Following this request lists of all wards and sites affected were sent out to all Ward Members.

3.2 Letters were sent out to residents affected by the review in the week commencing 21 January 2013, attached at Appendix 4. A total of 196 letters were sent out, however 27 letters were retained in light of the complaints being received.

3.3 The following responses were received from residents:

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## **An enquiry through the local MP requesting more information regarding a resident in Ibstock.**

- 3.4 There were also several media enquiries and the Council issued statements as appropriate including its intention to review with residents the access licences required.

## **4.0 MOTION AT COUNCIL 26 FEBRUARY 2013**

- 4.1 A motion was passed at Council meeting on the 26<sup>th</sup> February 2013 as follows: -.

*“Many residents who access their properties through Council owned land have been sent letters requesting payment for a license. Our understanding is that the license charges that are being requested are £20 for walking over and £90 for driving over Council land. The vast majority of these residents have been accessing their property for many years, in some cases decades, over Council land with no charges.*

*We would therefore propose:-*

*The issue is referred to Policy Development Group as soon as possible for reconsideration including the following areas;*

*1 – That the Council remove the new proposed charges of £90 to residents for accessing their properties by car and the new proposed charges of £20 for accessing their properties by foot and notify them accordingly;*

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*2 – That in areas where residents have been accessing their properties for many years without charge the Council re-examine whether licenses are really necessary;*

*And:*

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## **5.0 PROPOSED DISCUSSION POINTS FOR POLICY DEVELOPMENT GROUP**

- 5.1 Do people require a licence to have access to Council-owned land?

The Council has a duty to protect land which belongs to the whole community and ensure that individuals do not have unauthorised access. This can be particularly important

should the Council wish to develop areas of land in the future. As explained in paragraph 2.2. Exceptions might be where arrangements have already been put in place through contracts such as Right to Buy purchases or where residents have successfully established existing prescriptive rights however the overall position of the Council should be that a licence is required by everyone to access Council-owned land.

## 5.2 Should people pay to have a licence?

There is no need for a fee in order for licences to be valid. There are a number of charging options:

Option 1 Charge for the licences as set out in the Cabinet report of 31 October 2013. (set out in Column 3 of Appendix A of the Cabinet Report attached at Appendix 1)

The Council took advice from the District Valuer to determine market rates for licences and set fees accordingly as part of the review. In many cases residents will benefit from enhanced property values by having a formal access licence in place. For properties where licences are required, members are asked to consider whether these charges are fair and reasonable or whether they consider that lower charges would be more appropriate.

Option 2 Charge fees which cover the administrative costs of issuing and administering licences (new and existing).

There is a cost to the Council in terms of administrative time and resources in producing these licences. There is an argument that Council Tax payers in general should not foot the bill for providing a small number of people with formal access rights which in many cases will enhance the value of their properties and that it should therefore be recharged to the individuals concerned. In practice costs would vary depending on payment methods. If this option were to be chosen, it is likely that the fees would be around the same level of those for existing licences. This would also mean retaining charges which are different from those recommended by an independent valuer. In addition the future year increases to existing licences proposed in the previous Cabinet report would not be implemented as the Council would only seek to recover the administrative costs of producing the licences.

Option 3 Charge a nominal fee for licences.

There would be administrative costs involved which would exceed the nominal fees charged and a loss of income from existing licences of £8,000 a year.

Option 4 Issue free licences

As mentioned above there would be administrative costs which Council Tax payers in general would have to pay for. It would also be unfair to ask existing licence payers to continue to pay so there would be the loss of the £8,000 budgeted income from existing licences. Members may consider, however, that in some cases licences could be granted for free, perhaps for the length of the occupation of the current residents.



## DETAILS OF REVIEW PROCESS

<b>Milestone</b>	<b>Objective</b>	<b>Date</b>
<b>Working Group established</b>	To undertake site reviews	September 2009
<b>Report to CLT</b>	CLT approval to progress to next stage plan	October 2011
<b>Next stage plan completed</b>	Details of all license requirements, fee proposals and site evaluations	June 2012
<b>Report to CLT</b>	CLT approval to implement review	August 2012
<b>Report to Strategy Group</b>	SG approval to implement review	14 <sup>th</sup> August 2012
<b>Report to Cabinet</b>	Cabinet approval to implement review	31 <sup>st</sup> October 2012
<b>Implementation plan agreed including updated Communication Strategy</b>	Letters, communication strategy agreed and in place	2 <sup>nd</sup> November 2012
<b>Letters sent out to Ward Members &amp; Parishes</b>	To alert Ward members	12 November 2012
<b>Letters sent out to residents affected</b>	Implementation of the review	21 <sup>st</sup> January 2013
<b>Council meeting</b>	To hear motion	26 <sup>th</sup> February 2013
<b>Policy Development Group Report completed</b>	To compile a comprehensive report with options.	7 <sup>th</sup> March 2013
<b>Policy Development Group</b>	For Policy Development Group to receive information which will enable it to make recommendations to Cabinet regarding the implementation of the review of access licences	19 <sup>th</sup> March 2013



MINUTES of a meeting of the CABINET held in the Board Room, Council Offices, Coalville on WEDNESDAY, 31 OCTOBER 2012

Present: Councillor R Blunt (Chairman) (In the Chair)

Councillors R D Bayliss, T J Pendleton, N J Rushton and A V Smith.

In attendance: Councillors R Johnson and J Legrys.

Officers: Mr S Bambrick, Mr R Bowmer, Ms C Fisher, Mrs C Hammond and Miss E Warhurst.

**49. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**50. DECLARATION OF INTERESTS**

There were no declarations of interest.

**51. PUBLIC QUESTION AND ANSWER SESSION**

There were no questions received.

**52. MINUTES**

Consideration was given to the minutes of the meeting held on 25 September 2012.

RESOLVED THAT:

The minutes of the meeting held on 25 September 2012 be approved and signed by the Chairman as a correct record.

**Reason for decision:** To comply with the Constitution.

**53. PROPOSAL FOR THE POOLING OF BUSINESS RATES**

The Corporate Portfolio Holder presented the report to members. He highlighted to members that the authority would benefit from the extra resources that would be retained by the pool.

RESOLVED THAT:

1) Cabinet agrees to enter into the pooling agreement subject to the Head of Legal Services being satisfied as to the governance arrangements.

2(i)) Cabinet delegates authority to the Chief Executive and Section 151 Officer in conjunction with the Corporate Portfolio Holder to negotiate the terms of the agreement and

2(ii)) Cabinet delegates authority to the Chief Executive and Section 151 Officer in

Chairman's signature

Conjunction with the Corporate Portfolio Holder to enter into a legal agreement to participate in a Business Rates Pooling Submission to Central Government.

**Reason for decision:** Cabinet approval is required to enter into business rate pooling arrangements.

#### 54. CORPORATE CHARGING POLICY

The Corporate Portfolio Holder presented the report to members. He highlighted that the Council at present does not have a charging policy and the policy is part of the Council's response to the ongoing financial challenge that it faces.

RESOLVED THAT:

- 1) Cabinet approves the draft Corporate Charging Policy.
- 2) Cabinet delegates authority to the Head of Finance in consultation with the Portfolio Holder to make amendments to the Charging Policy as a result of legislative changes.

**Reason for decision:** To provide a policy framework for the reviewing of fees and charges.

#### 55. EFFECTIVE ASSET MANAGEMENT - REVIEW OF LEASES AND LICENCES

The Corporate Portfolio Holder presented the report to members. He highlighted that it was prudent for any business to review its leases and licences, and currently the licence fees had not been reviewed for a number of years.

RESLOVED THAT:

Cabinet approves the recommendations of the review and authority be delegated to the S151 Officer in consultation with the Corporate Portfolio Holder to implement them.

**Reason for decision:**

If the recommendations in the review are approved it will give the District Council the opportunity to control the use of its assets and formalise any access rights granted. It will also give the District Council the opportunity to prevent issues of land sterilisation and ensure that residents using the council's land who have the benefit of a licence are treated equitably in terms of the fee.

The meeting closed at 5.05pm.

Chairman's signature

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**CABINET - 31 OCTOBER 2012**

Title of report	<b>EFFECTIVE ASSET MANAGEMENT - REVIEW OF LEASES AND LICENSES</b>
Key Decision	a) Financial No b) Community Yes
Contacts	Councillor Nick Rushton 01530 412059 <a href="mailto:nicholas.rushton@nwleicestershire.gov.uk">nicholas.rushton@nwleicestershire.gov.uk</a>  Chief Executive 01530 4545500 <a href="mailto:christine.fisher@nwleicestershire.gov.uk">christine.fisher@nwleicestershire.gov.uk</a>  Head of Finance 01530 454520 <a href="mailto:ray.bowmer@nwleicestershire.gov.uk">ray.bowmer@nwleicestershire.gov.uk</a>
Purpose of report	To seek cabinet approval to progress the recommendations identified in a review that has been undertaken on the leases and licences.
Reason for Decision	If the recommendations in the review are approved it will give the District Council the opportunity to control the use of its assets and formalise any access rights granted. It will also give the District Council the opportunity to prevent issues of land sterilisation and ensure that residents using the council's land who have the benefit of a licence are treated equitably in terms of the fee.
Council Priorities	Value for Money
Financial/Staff	There is significant additional revenue to be realised from licences granted at open market rates. The council is currently generating £8,436 per annum from its existing licences. This could increase to up to £33,000 within four years if the recommendations of this review are implemented.

Link to relevant CAT	Not applicable
Risk Management	A risk register is available in Appendix B
Equalities Impact Assessment	This review will ensure that any licence fees that are applied by the District are fair and consistent to the general public.
Human Rights	None discernable from the report
Transformational Government	Not applicable
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	As author of the report, the report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	Asset Management Group Licences Working Group Corporate Leadership Team
Background papers	There are no background papers
Recommendations	<b>THAT CABINET APPROVES THE RECOMMENDATIONS OF THE REVIEW, AUTHORITY BE DELEGATED TO S151 OFFICER IN CONSULTATION WITH CORPORATE PORTFOLIO HOLDER TO IMPLEMENT THEM.</b>

## 1.0 BACKGROUND

- 1.1 The District Council owns numerous sites around the district over which public, local residents or organisations gain vehicular or pedestrian access for which an access licence is required from the Council. The Council also provides licences for the use of land for recreational and grazing purposes which are dealt with upon request. The council currently has an inconsistent approach to these arrangements in terms of requiring a formal agreement and reviewing the licences. The council proposes to regularise this to ensure that the fees charged are consistent with the type of access licence being granted. Furthermore, it will give the council the opportunity to control the

use of its assets by formalising any access rights being made and to guard against the risk of land sterilisation. Regular reviews of the use of its assets is something that a prudent landowner would do.

- 1.2 The findings from this review have suggested that current licence fees have not been reviewed for several years and therefore the existing licences are being charged below the market value. The administration costs in producing some of these licences are outweighing the licence fee that is being generated from them.
- 1.3 Furthermore, survey work undertaken has also identified that there are many people gaining unauthorised access over District Council owned land without a licence and this review is to ensure residents using the council's land have the benefit of a licence and treated equitably in terms of the fee and also to prevent issues of land sterilisation. In the majority of cases of unauthorised use the District Council will be happy to grant an access licence subject to a payment of a licence fee.
- 1.4 The District Council proposes to review existing licences by having them valued by an independent Valuer at open market rate. In order to make it more cost efficient for the council and to ensure that licence fees applied are fair and consistent with the type of access being granted; the licence group reviewed all the different type of access required and established six beacon groupings for the different type of licences that had been identified. Each group has been allocated a fee as detailed in Appendix A .The District Valuer has recommended that Group 4 is broken down into further sub groups to reflect the rateable values that should be applied to determine licence fees for non domestic properties accessing council land. This beacon approach will be applied for existing licences but the fees will be charged incrementally over three years. For licences and leases which are for rent of land rather than access, it will be necessary to value them separately as the size, and type of land will determine the licence fee. In isolated number of cases where licence requirements are not in alignment with the description of one of the six groups it will be managed on a site by site basis.
- 1.5 An Officer has been appointed from each service area who will be responsible for establishing where unauthorised access is being gained and advising Property Services of any new licence requirements. Property Services will administer existing and new licences and provide the Project Management and technical support for the project. Property Services will inform the appropriate Officer of any rejected licence offers and the Officer will be responsible for ensuring that there is no further access across council land with support from Legal and Property Services.

## **2.0 SUMMARY OF PROPOSED SCHEME**

2.1 To summarise the Licences and Leases review includes:

- Officers from each service area will identify licence requirements and inform property services.
- The Parish/District Councillors will be informed of the review.

- A Communications Strategy will be developed to respond to any queries or concerns and Customer Services will be involved with the review and therefore able to deal with any enquiries
- The District Valuer will value the beacons to determine Licence Fees. Any new leases/licences requests for rent of land will be determined by the Asset Management Group.
- New access Licences will be implemented in year 1, Residents will be informed about the review and invited to apply for one. Should they decide not to apply for a licence and continue to use the access steps will be taken to bring the use to an end.
- Property services will prepare Heads of Terms for the licences for approval by the Licences Working Group. Legal Services will prepare the Licence agreement templates which will be used to issue new and existing Licences.
- Officers from each service area will be informed of implemented Licences and those who do not wish to apply for one.
- Existing Licence holders will be informed of the review in year 2 and licence fees will be introduced incrementally.

### 3.0 TIMESCALES

- 3.1 It is proposed that new licences will be implemented in year 1 and existing licences will be reviewed in year 2. This is to reduce the impact and to ensure that the council are able to protect and control the use of its assets by formalising any access rights granted immediately.

### 4.0 FINANCIAL IMPLICATIONS

- 4.1 The table below compares the income that can be generated if this review is progressed and if all potential licences are implemented using the beacon approach (please refer to appendix A) with the income that would be generated if we decided not to progress this review allowing a small increase to the existing licences.

	No. of Current Licenses	Existing income	No. of new Proposed Licenses	Proposed Income	Additional Income
2013/2014	45	£8436	214	£25,651	£17,215
2014/2015	45	£8608	214	£27,557	£18,949
2015/2016	45	£8783	214	£30,323	£21,360
2016/2017	45	£8963	214	£32,899	£23,936

## Appendix A

Group No	Type of Access	License Fee	No. of Existing Licenses	No. of New Licences	Year 1 2013/14	Year 2 2014/15	Year 3 2015/16	Year 4 2016/17
1	Pedestrian access to dwelling over private land	Current Annual Fee: 35 (year1)  New Annual Fee: £20	2	64	<b>£1350</b>  (64 * 20 = 1280 2 * 35 = 70)	<b>£1320</b>  (66*20)	<b>£1320</b>  (66*20)	<b>£1320</b>  (66*20)
2	Pedestrian access to dwelling over public land	New Annual Fee: £20	0	45	<b>£900</b>  (45*20)	<b>£900</b>  (45*20)	<b>£900</b>  (45*20)	<b>£900</b>  (45*20)
3	Vehicular Access over private land to dwelling	Current Annual Fee £35 (year1)  New Annual Fee: £90  Year 2: £35 Year 3: £70 Year 4: £90	17	70	<b>£6895</b>  70* 90 = 6,300 + 17*35 = 595	<b>£6895</b>  70* 90 = 6,300 + 17*35 = 595	<b>£7490</b>  70*90 = 6,300 + 17*70 =	<b>£7,830</b>  70*90 = £6,300+ 17*90 = £1530
4	Vehicular Access Over council land to non domestic property	See below for sub groups within Beacon 4  Current £35	2	20	<b>£7055</b>  (6985 + 70)	<b>£7,215</b>  (6985 + 230)	<b>£7435</b>  (6985 +450)	<b>£7685</b>  (6985 +700)
5	Vehicular Access over Public land to Hardstanding	Current Fee:£35 (year1)  Annual Fee: £90	1	5	<b>£485</b>  (5*90 = 450 + 35)	<b>£485</b>  (5*90 = 450 + 35)	<b>£520</b>  (5*90 + 70)	<b>£540</b>  (5*90 +90)

		Year 2: £35 Year 3: £70 Year 4: £90						
6	Vehicular Access over public land to garage	Current Fee: £35 (year1)  Annual Fee: £130 Year 2: £40 Year 3: £80 Year 4: £130	4	10	<b>£1,440</b>  <b>(10*130 = 1300+35*4 = 140)</b>	<b>£1,460</b>  (10*130 = 1300 +4*40)	<b>£1620</b>  (10*130 = 1300 +4*80)	<b>£1820</b>  (10*130 = 1300 +4*130 = )
	Rent of Council land  (Predicted rental income of land on a site by site basis which will be valued in year 2014/15)	Predicted income:  Current income: £7,526 (year1)  Year 2 - £9,282 Year 3 - £11,038 Year 4 - £12,794	19	0	<b>£7,526</b>	<b>£9282</b>	<b>£11,038</b>	<b>£12,794</b>
	<b>Total</b>		<b>45</b>	<b>214</b>	<b>£25651</b>	<b>£27,557</b>	<b>£30,323</b>	<b>£32,889</b>

#### Subgroups within Beacon 4

Group 4	Licence Type	Rateable Value Up to	Annual Licence Fee
	Access over council land to club/public Service	£5,000	£120 Year 1 - £40 Year 2 - £80 Year 3 - £120
	Access over council land to club/public Service	£7,500	£175 Year 1 - £60 Year 2 - £120 Year 3 - £175
	Access over council land to club/public Service	£10,000	£235 Year 1 - £80 Year 2 - £180 Year 3 - £235
	Access over council land to club/public Service	£12,500	£290 Year 1 - £100 Year 2 - £200 Year 3 - £290
	Access over council land to club/public Service	£15,000	£350 Year 1 - £120 Year 2 - £240 Year 3 - £350
	Access over council land to club/public Service	£17,500	£400 Year 1 - £140 Year 2 - £280 Year 3 - £400
	Access over council land to club/public Service	£20,000	£450 Year 1 - £150 Year 2 - £300 Year 3 - £450
	Access over council land to club/public Service	Over £20,000	£500 Year 1 - £170 Year 2 - £350 Year 3 - £500

Group 4	Licence Type	Rateable Value Up to	Group 4
	Access over council land to private commercial property	£5,000	£140 Year 1 - £40 Year 2 - £80 Year 3 - £140
	Access over council land to private commercial property	£7,500	£210 Year 1 - £70 Year 2 - £140 Year 3 - £210
	Access over council land to private commercial property	£10,000	£280 Year 1 - £90 Year 2 - £180 Year 3 - £210
	Access over council land to private commercial property	£12,500	£350 Year 1 - £120 Year 2 - £240 Year 3 - £350
	Access over council land to private commercial property	£15,000	£420 Year 1 - £140 Year 2 - £280 Year 3 - £420
	Access over council land to private commercial property	£17,500	£490 Year 1 - £160 Year 2 - £330 Year 3 - £490
	Access over council land to private commercial property	£20,000	£560 Year 1 - £190 Year 2 - £370 Year 3 - £560
	Access over council land to private commercial property	Over £20,000	£600 Year 1 - £200 Year 2 - £400 Year 3 - £600

## Appendix B

### Risk Register

Risk	Impact	Probability	Control
Claims for prescriptive rights	High	Medium	Communicating the council's objection to unauthorised access as soon as possible
Sterilisation of council land	High	Medium	Communicating the council's objection to unauthorised access as soon as possible Ensuring defective title insurance is in place should we decide to develop the land. However this can be quite costly.
Costs incurred will outweigh the income generated	Medium	Medium	Ensuring the district Valuer is provided with as much information as possible in order to keep his fees to an absolute minimum
Negative PR	High	High	A communications plan is drawn up and potential licensees are consulted about the review.



Dear Councillor / Parish Clerk

**LEASES AND LICENCES REVIEW FOR THE USE OF COUNCIL LAND**

The District Council owns numerous sites around the district where the public, local residents or organisations gain vehicular or pedestrian access for which an access licence is required from the Council. The Council also provides licences for the use of land for recreational and grazing purposes which are dealt with upon request. As part of its asset management programme the Council has looked at how it deals with these licences. The outcome of the review was to ensure that the Council was treating all licensees and lessees fairly and consistently in light of the current austere financial climate, and the principals of efficient asset management.

The review found that current licence fees had not been reviewed for several years and that there were people gaining unauthorised access over District Council owned land without a licence. This meant that some people were not paying for the use of the access when they should have been and other, existing licensees were not paying a reasonable market rate for the benefit of the access. Also, as a result the administrative costs in dealing with the licensees and unauthorised use outweighed the licence income, therefore representing a cost to the Council taxpayers at large. The review also identified that it was important to regularise the position with a formal legal agreement to prevent land sterilisation issues which could potentially limit the Council's ability to manage and use the land in future.

The Council intends to regularise the position in terms of residents with and without the benefit of a licence. We will be contacting those who do not have a licence and inviting them to apply for one. In the majority of cases the District Council will be happy to grant a licence subject to a formal agreement being in place. Should they decide not to apply for a licence and continue to use the access then steps will be taken to bring the use to an end.

To ensure transparency and independence, the Council has engaged the services of the District Valuer on this matter. We have asked the District Valuer to formally assess the current level of licence fee to ensure consistency. The District Valuer has completed his assessment and has provided up to date valuations for the licences, reflecting the current market position.

Where an increase in fees has been identified by the District Valuer, the Council will implement the change incrementally over 3 years to help manage the effect. The Council will notify residents of the potential increases to their licence fees before they are implemented giving them the opportunity to address any concerns.

This exercise will give the District Council the opportunity to control the use of its assets and formalise any access rights granted. One of the Council's priorities is to provide good value for money for everyone in the district. The review of access licences aims to ensure that residents requiring access to their properties can continue to have access rights at a fair rate without additional subsidy from the Council and to ensure that licence fees charged are consistent with the type of licence being granted.

I attach for information two letters that the Council will be sending out informing residents that may be affected by the review.

Appendix (a) a letter that will be sent to residents that may be gaining access over District owned land without a licence, this will be sent out early in January 2013

Appendix (b) a letter to be sent out to existing licence holders informing them of the review and identifying any potential increases or decreases to their current charges, this will be sent out in July 2013

Should you have any further queries please do not hesitate to contact me.

Yours sincerely

Ray Bowmer  
Head of Finance

E-mail: [ray.bowmer@nwleicestershire.gov.uk](mailto:ray.bowmer@nwleicestershire.gov.uk)

Appendix (a)  
Sent out early January 2013

Dear [The Occupier]

Subject to contract

**RIGHT OF ACCESS OVER COUNCIL OWNED LAND TO REAR OF [LOCATION]**

The Council has recently reviewed the use of its land and is writing to all residents who may be accessing Council owned land who currently do not appear to have a vehicular / pedestrian access licence from the Council permitting this access. From our records it is our understanding that you may be accessing Council land at [ ] without a licence.

The Council does allow a number of residents to have an access over its land. Those residents are required to have a license agreement with the council and are charged a fee at market rate.

In order to regulate our services and in line with the Council's priority to provide good value for money for everyone in the district, we are reviewing the licences to ensure that residents requiring access to their properties can have access rights at a fair rate with a formal legal agreement in place.

To ensure transparency and independence, the Council has asked the District Valuer to decide the amount of the licence fee. The District Valuer has set the licence fee for the above access at £..... for this year.

If you do require access over the Council land could you please complete the attached form by no later than [date]. Once I receive this signed form the licence will be prepared and sent to you.

If you do not require the access can you please complete the attached form confirming this.

Should you wish to discuss this matter further, please contact Simon Harvey, Property and Asset Manager, on 01530 454550.

Yours sincerely

Ray Bowmer  
Head of Finance

E-mail: ray.bowmer@nwleicestershire.gov.uk

ms2021jf

ANNUAL LICENCE FOR RIGHT OF ACCESS OVER COUNCIL OWNED LAND TO THE REAR OF [ ]

**Please complete and return at the above address**

I ..... Of .....

(Name)

(Address)

Do / Do not (delete as appropriate)

Require access to the rear of my property over Council owned land.

I acknowledge that I have no right to obtain access to the rear of my property without the express consent of the Council.

Signed ..... Date .....

ms1021jf

Appendix (b)  
Sent out July 2013  
Dear [The Occupier]

Subject to contract

**RIGHT OF ACCESS OVER COUNCIL OWNED LAND TO REAR OF [LOCATION]**

The Council has recently reviewed all of the licences issued for the use of Council land.

We are writing to you as, from our records, you currently hold a licence for right of access over Council owned land.

The aim of the review is to ensure that appropriate licences are in place and licensing charges are consistent and fair.

To ensure transparency and independence, the Council has asked the District Valuer to decide the amount of the licence fee. The District Valuer has set the licence fee at £..... The Council proposes to implement the change incrementally over 3 years as follows:

- From 1 April 2014
- From 1 April 2015
- From 1 April 2016

In the event that the valuation is lower than the current fees, this reduced rate will take immediate effect.

I would be grateful if you could confirm whether or not you wish to continue using the access by completing and returning the attached form by [date]. If you do not return the form to us by [date] we will assume that you wish to continue using the access and a new licence will be arranged.

In the meantime, if you have any questions or would like any further information about this process, then please contact Simon Harvey, Property and Asset Manager, on 01530 454550.

Yours sincerely

Ray Bowmer  
Head of Finance

E-mail: ray.bowmer@nwleicestershire.gov.uk

ms1020jf

ANNUAL LICENCE FOR RIGHT OF ACCESS OVER COUNCIL OWNED LAND TO THE REAR OF [ ]

**Please complete and return at the above address**

I ..... Of .....

(Name)

(Address)

Do / Do not (delete as appropriate)

Require access to the rear of my property over Council owned land.

I acknowledge that I have no right to obtain access to the rear of my property without the express consent of the Council.

Signed ..... Date .....



Dear [The Occupier]

Subject to contract

**RIGHT OF ACCESS OVER COUNCIL OWNED LAND TO REAR OF [LOCATION]**

The Council has recently reviewed the use of its land and is writing to all residents who may be accessing Council owned land who currently do not appear to have a vehicular / pedestrian access licence from the Council permitting this access. From our records it is our understanding that you may be accessing Council land at [ ] without a licence.

The Council does allow a number of residents to have an access over its land. Those residents are required to have a license agreement with the council and are charged a fee at market rate.

In order to regulate our services and in line with the Council's priority to provide good value for money for everyone in the district, we are reviewing the licences to ensure that residents requiring access to their properties can have access rights at a fair rate with a formal legal agreement in place.

To ensure transparency and independence, the Council has asked the District Valuer to decide the amount of the licence fee. The District Valuer has set the licence fee for the above access at £..... for this year.

If you do require access over the Council land could you please complete the attached form by no later than [date]. Once I receive this signed form the licence will be prepared and sent to you.

If you do not require the access can you please complete the attached form confirming this.

Should you wish to discuss this matter further, please contact Simon Harvey, Property and Asset Manager, on 01530 454550.

Yours sincerely

Ray Bowmer  
Head of Finance

E-mail: ray.bowmer@nwleicestershire.gov.uk

ms2021jf

ANNUAL LICENCE FOR RIGHT OF ACCESS OVER COUNCIL OWNED LAND TO THE REAR OF [                    ]

**Please complete and return at the above address**

I ..... **Of** .....

(Name)

(Address)

Do / Do not (delete as appropriate)

Require access to the rear of my property over Council owned land.

I acknowledge that I have no right to obtain access to the rear of my property without the express consent of the Council.

Signed ..... Date .....

ms1021jf

## APPENDIX 2

MINUTES of a meeting of the POLICY DEVELOPMENT GROUP held in the Council Chamber, Council Offices, Coalville on TUESDAY, 19 MARCH 2013.

Present: Councillor T Gillard (Chairman)

Councillors N Clarke, P Clayfield, J Cotterill, J G Coxon, D Everitt, T Neilson, A C Saffell, N Smith and V Richichi (Substitute for Councillor R Holland).

Officers: Christine Fisher, Chief Executive, Dave Gill, Interim Legal Services Team Manager, Simon Harvey, Property Asset Manager and Melanie Phillips, Democratic and Support Services Team Manager.

At the commencement of the meeting, the Chairman explained to the members of the public in attendance, which Members had a right to vote in this meeting.

### **49. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor R Holland.

### **50. DECLARATION OF INTERESTS**

There were no interests declared.

### **51. PUBLIC QUESTION AND ANSWER SESSION**

There were no questions received.

### **52. MINUTES**

Consideration was given to the minutes of the meetings held on 9 January and 11 February 2013.

RESOLVED THAT:

The minutes of the meetings held on 9 January and 11 February 2013 be approved as a correct record and signed by the Chairman.

### **53. EFFECTIVE ASSET MANAGEMENT – ACCESS LICENCES**

The Chairman introduced this item by moving a motion which stated that "a recommendation be made to Cabinet that all access licences will be granted free of charge for the length of the tenancy of existing residents". This was seconded by Councillor Richichi. The Chairman then invited Councillor De Lacy to take the floor and speak on behalf of the local residents.

Councillor De Lacy thanked the Chairman and addressed the meeting. He referred to a drawing which depicted the access route which ran to the rear of Leicester Road and Penistone Street, Ibstock. He explained that the access route had been used by residents for a number of years without charge and that the letter sent by this Authority suggesting that a licence was required had come as a shock, especially when that

Chairman's initials

licence was to cost £20 for pedestrian access and £90 for vehicle access. Councillor De Lacy referred to the fact that not all residents had received a letter yet all residents made use of the access route which was therefore unfair. Furthermore, there was nothing to prevent any driver from utilising this access road yet despite this, only the residents were being asked to pay.

Councillor De Lacy then made reference to an occurrence on Friday last whereby the main road had been closed by Seven Trent which had caused chaos on this access road, although it was acknowledged that this was not the official diversion route. He further stated that it was locally accepted that the road in question was an access route, it had been for the past 50 years and no doubt would be for the next 50 years.

Councillor De Lacy referred Members to the reference in the report to the findings of the Council's Asset Management Group whereby it had identified that a number of sites had some form of development potential and that they therefore should be protected from any potential land sterilisation issues, including prescriptive rights. Councillor De Lacy stated that this confirmed that the Asset Management Group had recognised that not all sites required a licence so the intention of the motion to provide free licences appeared flawed.

He further reported that the consequence of this action would be to introduce more parking on the public highway which would not be in the public interest and, furthermore, residents had been maintaining this access route for a number of years, not the Council, which meant that they had protected rights of access and therefore did not require a licence, adding further weight to the argument that licences, whether free of charge or not were not always necessary.

Councillor De Lacy added that he was going to suggest that, where licences are needed, these should be free of charge but the motion put forward had already proposed this.

He then turned to the issue of the letters which had been sent out to the affected residents which he considered was deliberately designed to encourage residents to forego their prescriptive rights of access. He added that many had signed the letter not realising that they had unwittingly given these rights up and asked that the Authority consider this issue and put measures in place to rectify it.

Finally, Councillor De Lacy referred to the breakdown of the financial implications as set out in the report. He asked whether the reference to the rent of council land for which the current income was valued at £7,526 was for leisure purposes and therefore by introducing free licences would we therefore not lose income? Councillor De Lacy sought clarification on how the motion would address this. He added that the categories relating to pedestrian access were a nonsense as many residents needed to use the access for gaining entry to their property or facilities, such as wheeled bins and garages. In summary, Councillor De Lacy requested that the Council reviews where a licence is actually needed rather than just assuming no charge.

The Chairman invited Members to ask questions.

Councillor Clarke referred to the administrative costs of £8K referred to in the report and stated that due to this amount being offset by the income of £7.5k, there would be no loss to the Council.

Councillor Neilson acknowledged that the motion proposed no charges for the licences

Chairman's initials

but he argued that the issue was to establish whether licences were actually needed and, if so, where. He added that there was nothing in the report to show the original analysis of how properties were identified. He also asked whether it was prudent to see income lost from the lease of council land and sought clarification on how the motion would address this.

Councillor Everitt referred to a reference in the report which suggested that there was very little response to the letter which had been sent to elected Members setting out the reasons for the review, which alluded to the fact that only Councillor Legrys had responded. He stated that he too raised concerns and asked a question on this matter but he had been given short shrift and was disappointed that the report makes no reference to his request for information. Furthermore, he considered that there was far too much inconsistency with this policy, it was riddled with issues and was an idea best forgotten about adding that the Council should be there to support people not to make life more difficult.

The Chairman advised Councillor Everitt that a report would be submitted to the next meeting of Cabinet comprising his views.

Councillor Clayfield advised that those areas which required a licence need to be identified and a far more in-depth investigation is required into what land the Council owns and that this should be done properly and transparently.

Councillor Clarke reported that he was not clear that licences were actually required and made reference specifically to Sharpley Avenue and access to the recreation ground asking whether it was right that everyone accessing this land required a licence.

The Property Asset Manager clarified this point by stating that a licence would not be applicable if accessing the land by the normal route but it would apply to those who access the recreation ground directly from their own property e.g via a rear gate.

Councillor Clarke came back on this point stating that it was not clear and asked whether judgement on whether a licence was needed was based solely on whether the resident had a gate and asked what would be the position if the gate was no longer in use? He considered that this reasoning was not clear or robust enough.

The Chairman advised Councillor Clarke that a report would be submitted to the next meeting of Cabinet comprising his views.

Councillor Neilson asked the Chairman to clarify the need for the meeting if he was not going to allow the opportunity for questions to be answered tonight given that officers had given up their time to attend, making specific reference to the attendance of the Chief Executive and the Property Asset Manager.

The Chairman asked the Property Asset Manager to respond to the points raised.

The Property Asset Manager advised Members that the initial review was, in hindsight, fairly narrow. He gave the example of a car park as a typical priority site whereby some people have licences, others do not and some pay to park on it. Another example given was garage sites where access is over council owned land where licences are already in place being paid for by others. He also stated that this issue had held up the sale of some properties as there is no access shown on the deeds.

Chairman's initials

The Chief Executive referred to the report in which it set out suggested points for discussion by the Group with the hope of reaching a consensus view from both sides and addressing the concerns of those present.

Councillor Saffell asked how we had reached a situation where some people have licences and others do not leaving the Council with a very unfair situation which this proposal had sought to address.

A member of the public asked how, as a professional organisation, the Council could have got it so wrong.

The Chief Executive sought the permission of the Chairman to respond to this comment. Firstly she apologised sincerely for the wording in the letter which had been sent to all affected residents and which had clearly caused alarm. She acknowledged that the letter was not intended to cause concern and that it should have been better worded. She added that both herself and the Leader of the Council accepted responsibility for this and acknowledged that it had been seen by officers and members from both sides and yet no-one had picked up how the wording of the letter might have been perceived. She again apologised and advised that lessons had been learnt.

The Chief Executive went on to state that there was no easy one size fits all solution to this and that a tight procedure would need to be followed comprising local knowledge before continuing. What is required is for the Policy Development Group to suggest a direction of travel and give a steer to Cabinet on how to proceed; adding that the current process had been suspended and no further action would be taken until this matter had been resolved.

Councillor Richichi stated that there should be no charge for a licence as long as all residents signed an agreement not to claim prescriptive rights.

The Chief Executive suggested that the Policy Development Group may wish to take a site by site approach and make a strong decision for the local people. This may take longer but the process needs to be right as the Council has a duty to protect the land that belongs to the people of North West Leicestershire.

Councillor Clarke reported that it made complete sense to do a site by site review of all the sites. He referred to Stretton Drive as being a specific area which he did not believe was council owned as he believed that this was in the ownership of East Midlands Housing.

Councillor Clarke therefore moved that that a review of all the sites be undertaken before referring the decision back to Cabinet for a decision. This was seconded by Councillor Clayfield.

Councillor Coxon welcomed Councillor De Lacy's presentation and hoped that this issue could now be progressed.

Councillor Everitt expressed his pleasure to see democracy at work and stated that this was an example of good scrutiny.

Councillor Gillard supported the proposal on taking forward this issue and withdrew his original motion with the support of the seconder.

Chairman's initials

Chairman's initials

RESOLVED THAT:

A site specific review be undertaken to gauge where access licences may be appropriate and that a report be brought back to the Policy Development Group at its next meeting for further consideration.

**54. ITEMS FOR INCLUSION IN THE FUTURE WORK PROGRAMME**

Consideration was given to the future work programme for the Policy Development Group.

RESOLVED THAT:

A report on a site specific review of the access licences be placed on the work programme of the Policy Development Group for consideration at its next meeting scheduled to be held on 25 June 2013.

The meeting commenced at 6.30pm and closed at 7.20pm

Chairman's signature

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## POLICY DEVELOPMENT GROUP – 23 MAY 2013

Title of report	<b>EFFECTIVE ASSET MANAGEMENT – ACCESS LICENCES</b>
Contacts	<p>Councillor Nick Rushton 01530 412059 <a href="mailto:nicholas.rushton@nwleicestershire.gov.uk">nicholas.rushton@nwleicestershire.gov.uk</a></p> <p>Chief Executive 01530 454500 <a href="mailto:christine.fisher@nwleicestershire.gov.uk">christine.fisher@nwleicestershire.gov.uk</a></p> <p>Head of Finance 01530 454520 <a href="mailto:ray.bowmer@nwleicestershire.gov.uk">ray.bowmer@nwleicestershire.gov.uk</a></p>
Purpose of report	For Policy Development Group to receive information which will enable it to make recommendations to Cabinet regarding the implementation of the review of access licences.
Council Priorities	Value for Money
Implications:  Financial/Staff	The approved 2013/14 budget includes £18,125 for access licences. Should the Policy Development Group make recommendations which have financial implications these would need to be considered by Cabinet.
Link to relevant CAT	Not applicable.
Risk Management	A risk register was included in the Cabinet Report of 31 October 2012 which is attached.
Equalities Impact Assessment	Considered and noted in the report
Human Rights	Considered and none identified.
Transformational Government	None identified.
Comments of Head of Paid Service	The report is satisfactory

Comments of Section 151 Officer	As report author, the report is satisfactory.
Comments of Deputy Monitoring Officer	The report is satisfactory
Consultees	As detailed in the report.
Background papers	Report to Policy Development Group 19 March 2013 – <a href="#">click here</a> or go to the Council's website at <a href="http://www.nwleics.gov.uk">www.nwleics.gov.uk</a>
Recommendations	<p><b>THAT POLICY DEVELOPMENT GROUP RECOMMENDS TO CABINET THAT IT:</b></p> <ol style="list-style-type: none"> <li><b>1. CONFIRMS ALL THE LAND BEING ACCESSED IS OWNED BY THE COUNCIL</b></li> <li><b>2. CONFIRMS THE COUNCIL'S PERMISSION IS REQUIRED TO GAIN ACCESS THIS LAND</b></li> <li><b>3. AGREES OFFICERS TAKE THE ACTIONS SET OUT IN PARAGRAPH 3 OF THIS REPORT TO FORMALISE ACCESS ARRANGEMENTS</b></li> <li><b>4. AGREES TO THE POLICY DEVELOPMENT GROUP'S RECOMMENDATIONS FOR CHARGING.</b></li> </ol>

## 1.0 BACKGROUND

- 1.1 Following the meeting of the Policy Development Group on 19 March 2013 (minutes attached at Appendix 1), officers met to address the proposals put forward by Members for detailed site by site reviews
- 1.2 The objectives of the reviews were as follows:
- Confirm the ownership of land across which access was being gained.
  - Confirm that the Council's permission was required to gain access
  - Provide fair and equitable solutions to residents' and businesses' access needs
  - Propose fair and equitable charges where formal access licences were required.

On these reviews being completed, Members were engaged in more discussion.

## 2.0 PROCESS FOLLOWED

- 2.1 Ward Members were engaged to determine whether there was additional local knowledge not known to officers and also to express their views on the outcomes of the review.

2.2 Officers used an evaluation process to provide information for the Ward Member discussions. This identified:-

- Sites where licences have been previously issued.
- Sites that are not open to access to the general public
- Sites where there are existing garage tenants or car parks where rents or fees are being charged and therefore there is a direct or indirect cost to other users of the access.
- Sites that could have an alternative use to the Council in the future
- Sites that could have development potential in the future
- The condition of the site
- Known potential prescriptive rights claims

2.3 Each of the criteria was weighted and given a maximum score in order to ensure a consistent approach and to identify sites that may or may not require formal access arrangements. The weighting and scoring were structured so that the higher the overall score the higher the priority that some form of formal access arrangements should be in place and the lower the score the lesser necessity for formal arrangements.

2.4 A site with licences that have previously been in place that is not open for general public access, with other tenants or fee paying visitors to the site, with alternative use and development potential in a good condition with no known prescriptive right claims would score very high and therefore some formal access requirement would be required.

2.5 A site with no previous licences, open to the general public, with no tenants, no alternative uses or development potential, in a relatively poor condition with known prescriptive right challenges would score very low and less formal access arrangements would be required.

### **3. OUTCOMES OF THE REVIEWS**

3.1 The Legal Department has confirmed that all of the land identified in the list of properties provided by Property Services, over which access is being gained is owned by the Council

3.2 The reviews confirmed that existing licence holders also required permission to access over Council owned land.

3.3 As requested by Policy Development Group land lease arrangements were excluded from the reviews. It is assumed that the Cabinet recommendations relating to these sites remain unchanged.

3.4 The outcome of the reviews of 253 properties (27 existing and 226 new properties) are detailed in Appendix 2. The action proposed can be summarised as follows:

- For 77 Council dwellings access rights can be clarified by amending the tenancy agreements. A review of tenancy agreements is already planned for 2014.
- The access rights to 56 former Council dwellings purchased under Right To Buy were not formalised at the time of transfer and will now be confirmed in a letter from the Council.

- The Council will confirm in writing to 54 private residents that it is content for them to continue to gain access across its land and will offer to discuss formalising the arrangements if so desired by residents.
- For 25 privately owned residential properties (13 with existing licences and 12 others) the Council believes an access licence is required.
- For 10 commercial properties the Council believes an access licence is required. (1 existing and 9 new).
- In the case of two properties it was agreed that enforcement action was appropriate to restrict the access.
- The meetings held with Ward Members in particular helped to identify 29 remaining properties where there was a need for further consultation with the occupiers and in some cases the respective Parish Council before concluding the reviews. Officers will in these cases continue to work with Ward Members to agree which of the above actions would be most appropriate.

#### 4. OPTIONS FOR CHARGING

- 4.1 The report to Cabinet in October 2012 (attached at Appendix 3), proposed charges for new licences based on District Valuer valuations. The report further recommended that for consistency the existing licence fees would be brought into line with the new ones over a four year period. One of the criticisms of the Council's earlier proposals was that the proposed licence fees were too high.
- 4.2 The following options are now provided to Policy Development Group to assist in making recommendations to Cabinet on 11 June 2013 for charging where licences will be required.

<b>Charge</b>	<b>Option A Existing Charges</b>	<b>Option B Charges proposed by Cabinet 31 October 2012</b>
<b>Pedestrian</b>	£35	£20
<b>Vehicular (Residential)</b>	£35	From £70 to £130
<b>Vehicular (Commercial)</b>	£35	From £70 to £500
<b>Total Income</b>	£1,225	£18,125

- 4.3 The 2013/14 Revenue Budget includes an income budget of £18,125 based on the proposals in the 31 October 2012 Cabinet Report. If Policy Development Group recommends Option A to Cabinet there would be an estimated shortfall in income of £16,900.

## APPENDIX 1

MINUTES of a meeting of the POLICY DEVELOPMENT GROUP held in the Council Chamber, Council Offices, Coalville on TUESDAY, 19TH MARCH, 2013

Present: Members:- Councillor T Gillard (Chairman), Councillor N Clarke, Councillor P Clayfield, Councillor J Cotterill, Councillor J G Coxon, Councillor D Everitt, Councillor T Neilson, Councillor A C Saffell, Councillor N Smith and Councillor V Richichi (Substitute for Councillor R Holland).

Officers:- Christine Fisher, Chief Executive, Dave Gill, Interim Legal Services Team Manager, Simon Harvey, Property Asset Manager and Melanie Phillips, Democratic and Support Services Team Manager.

At the commencement of the meeting, the Chairman explained to the members of the public in attendance, which Members had a right to vote in this meeting.

### **49. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor R Holland.

### **50. DECLARATION OF INTERESTS**

There were no interests declared.

### **51. PUBLIC QUESTION AND ANSWER SESSION**

There were no questions received.

### **52. MINUTES**

Consideration was given to the minutes of the meetings held on 9 January and 11 February 2013.

RESOLVED THAT:

The minutes of the meetings held on 9 January and 11 February 2013 be approved as a correct record and signed by the Chairman.

### **53. EFFECTIVE ASSET MANAGEMENT – ACCESS LICENCES**

The Chairman introduced this item by moving a motion which stated that "a recommendation be made to Cabinet that all access licences will be granted free of charge for the length of the tenancy of existing residents". This was seconded by Councillor Richichi. The Chairman then invited Councillor De Lacy to take the floor and speak on behalf of the local residents.

Councillor De Lacy thanked the Chairman and addressed the meeting. He referred to a drawing which depicted the access route which ran to the rear of Leicester Road and Penistone Street, Ibstock. He explained that the access route had been used by residents for a number of years without charge and that the letter sent by this Authority suggesting that a licence was required had come as a shock, especially when that licence was to cost £20 for pedestrian access and £90 for vehicle access. Councillor De Lacy referred to the fact that not all residents had received a letter yet all residents made

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use of the access route which was therefore unfair. Furthermore, there was nothing to prevent any driver from utilising this access road yet despite this, only the residents were being asked to pay.

Councillor De Lacy then made reference to an occurrence on Friday last whereby the main road had been closed by Seven Trent which had caused chaos on this access road, although it was acknowledged that this was not the official diversion route. He further stated that it was locally accepted that the road in question was an access route, it had been for the past 50 years and no doubt would be for the next 50 years.

Councillor De Lacy referred Members to the reference in the report to the findings of the Council's Asset Management Group whereby it had identified that a number of sites had some form of development potential and that they therefore should be protected from any potential land sterilisation issues, including prescriptive rights. Councillor De Lacy stated that this confirmed that the Asset Management Group had recognised that not all sites required a licence so the intention of the motion to provide free licences appeared flawed.

He further reported that the consequence of this action would be to introduce more parking on the public highway which would not be in the public interest and, furthermore, residents had been maintaining this access route for a number of years, not the Council, which meant that they had protected rights of access and therefore did not require a licence, adding further weight to the argument that licences, whether free of charge or not were not always necessary.

Councillor De Lacy added that he was going to suggest that, where licences are needed, these should be free of charge but the motion put forward had already proposed this.

He then turned to the issue of the letters which had been sent out to the affected residents which he considered was deliberately designed to encourage residents to forego their prescriptive rights of access. He added that many had signed the letter not realising that they had unwittingly given these rights up and asked that the Authority consider this issue and put measures in place to rectify it.

Finally, Councillor De Lacy referred to the breakdown of the financial implications as set out in the report. He asked whether the reference to the rent of council land for which the current income was valued at £7,526 was for leisure purposes and therefore by introducing free licences would we therefore not lose income? Councillor De Lacy sought clarification on how the motion would address this. He added that the categories relating to pedestrian access were a nonsense as many residents needed to use the access for gaining entry to their property or facilities, such as wheeled bins and garages. In summary, Councillor De Lacy requested that the Council reviews where a licence is actually needed rather than just assuming no charge.

The Chairman invited Members to ask questions.

Councillor Clarke referred to the administrative costs of £8K referred to in the report and stated that due to this amount being offset by the income of £7.5k, there would be no loss to the Council.

Councillor Neilson acknowledged that the motion proposed no charges for the licences but he argued that the issue was to establish whether licences were actually needed and, if so, where. He added that there was nothing in the report to show the original analysis of how properties were identified. He also asked whether it was prudent to see income lost from the lease of council land and sought clarification on how the motion

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would address this.

Councillor Everitt referred to a reference in the report which suggested that there was very little response to the letter which had been sent to elected Members setting out the reasons for the review, which alluded to the fact that only Councillor Legrys had responded. He stated that he too raised concerns and asked a question on this matter but he had been given short shrift and was disappointed that the report makes no reference to his request for information. Furthermore, he considered that there was far too much inconsistency with this policy, it was riddled with issues and was an idea best forgotten about adding that the Council should be there to support people not to make life more difficult.

The Chairman advised Councillor Everitt that a report would be submitted to the next meeting of Cabinet comprising his views.

Councillor Clayfield advised that those areas which required a licence need to be identified and a far more in-depth investigation is required into what land the Council owns and that this should be done properly and transparently.

Councillor Clarke reported that he was not clear that licences were actually required and made reference specifically to Sharpley Avenue and access to the recreation ground asking whether it was right that everyone accessing this land required a licence.

The Property Asset Manager clarified this point by stating that a licence would not be applicable if accessing the land by the normal route but it would apply to those who access the recreation ground directly from their own property e.g via a rear gate.

Councillor Clarke came back on this point stating that it was not clear and asked whether judgement on whether a licence was needed was based solely on whether the resident had a gate and asked what would be the position if the gate was no longer in use? He considered that this reasoning was not clear or robust enough.

The Chairman advised Councillor Clarke that a report would be submitted to the next meeting of Cabinet comprising his views.

Councillor Neilson asked the Chairman to clarify the need for the meeting if he was not going to allow the opportunity for questions to be answered tonight given that officers had given up their time to attend, making specific reference to the attendance of the Chief Executive and the Property Asset Manager.

The Chairman asked the Property Asset Manager to respond to the points raised.

The Property Asset Manager advised Members that the initial review was, in hindsight, fairly narrow. He gave the example of a car park as a typical priority site whereby some people have licences, others do not and some pay to park on it. Another example given was garage sites where access is over council owned land where licences are already in place being paid for by others. He also stated that this issue had held up the sale of some properties as there is no access shown on the deeds.

The Chief Executive referred to the report in which it set out suggested points for discussion by the Group with the hope of reaching a consensus view from both sides and addressing the concerns of those present.

Councillor Saffell asked how we had reached a situation where some people have licences and others do not leaving the Council with a very unfair situation which this

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proposal had sought to address.

A member of the public asked how, as a professional organisation, the Council could have got it so wrong.

The Chief Executive sought the permission of the Chairman to respond to this comment. Firstly she apologised sincerely for the wording in the letter which had been sent to all affected residents and which had clearly caused alarm. She acknowledged that the letter was not intended to cause concern and that it should have been better worded. She added that both herself and the Leader of the Council accepted responsibility for this and acknowledged that it had been seen by officers and members from both sides and yet no-one had picked up how the wording of the letter might have been perceived. She again apologised and advised that lessons had been learnt.

The Chief Executive went on to state that there was no easy one size fits all solution to this and that a tight procedure would need to be followed comprising local knowledge before continuing. What is required is for the Policy Development Group to suggest a direction of travel and give a steer to Cabinet on how to proceed; adding that the current process had been suspended and no further action would be taken until this matter had been resolved.

Councillor Richichi stated that there should be no charge for a licence as long as all residents signed an agreement not to claim prescriptive rights.

The Chief Executive suggested that the Policy Development Group may wish to take a site by site approach and make a strong decision for the local people. This may take longer but the process needs to be right as the Council has a duty to protect the land that belongs to the people of North West Leicestershire.

Councillor Clarke reported that it made complete sense to do a site by site review of all the sites. He referred to Stretton Drive as being a specific area which he did not believe was council owned as he believed that this was in the ownership of East Midlands Housing.

Councillor Clarke therefore moved that that a review of all the sites be undertaken before referring the decision back to Cabinet for a decision. This was seconded by Councillor Clayfield.

Councillor Coxon welcomed Councillor De Lacy's presentation and hoped that this issue could now be progressed.

Councillor Everitt expressed his pleasure to see democracy at work and stated that this was an example of good scrutiny.

Councillor Gillard supported the proposal on taking forward this issue and withdrew his original motion with the support of the seconder.

**RESOLVED THAT:**

A site specific review be undertaken to gauge where access licences may be appropriate and that a report be brought back to the Policy Development Group at its next meeting for further consideration.

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**54. ITEMS FOR INCLUSION IN THE FUTURE WORK PROGRAMME**

Consideration was given to the future work programme for the Policy Development Group.

**RESOLVED THAT:**

A report on a site specific review of the access licences be placed on the work programme of the Policy Development Group for consideration at its next meeting scheduled to be held on 25 June 2013.

The meeting commenced at 6.30pm and closed at 7.20pm

<b>Summary of Review Outcomes by Category</b> <b>Category A – A formal agreement MAY NOT be required</b> <b>Category B – Formal Agreement MAY be required</b> <b>Category C – Formal Agreement WOULD be required</b>						
<b>(T = Tenant) (RTB = Right To Buy) (O/O = Owner Occupier) (C=Commercial)</b>						
Date	Ward	Site	No. of Properties	Outcome	Ownership	Access Agreement Required
24.04.2013	<b>Appleby</b>	Parkfield Crescent Garage Site	2 (pedestrian)	A	<b>2 x T</b>	Amend Tenancy Agreement
24.04.2013	<b>Appleby</b>	Quarry Lane Garage Site	1 (vehicle) 2 (pedestrian)	B	<b>2 x T</b>  <b>1 x RTB</b>	Amend Tenancy Agreement  Letter
24.04.2013	<b>Ashby</b>	Brook Street Car Park	7 (vehicle) businesses *	B	<b>7 x C</b>	Formal Agreement
24.04.2013	<b>Bardon</b>	Greenhill Recreation Ground	5 (pedestrian)	A	<b>4 x T</b>  <b>1 x O/O</b>	Amend Tenancy Agreement  Letter
24.04.2013	<b>Castle Donington</b>	Park Avenue Garage Site	1 (vehicular)	A	<b>1 x RTB</b>	Letter
24.04.2013	<b>Castle Donington</b>	Shields Crescent Garage Site	1 (vehicle)	B	<b>1 x RTB</b>	Letter
24.04.2013	<b>Castle Donington</b>	Shields Crescent Council land	1 (vehicle existing) 1 (pedestrian existing)	B	<b>1 X RTB</b>  <b>1 x O/O</b>	Review
24.04.2013	<b>Coalville</b>	Scotlands Playing fields	9 (pedestrian)	A	<b>9 x O/O</b>	Letter
24.04.2013	<b>Coalville</b>	Needhams Walk Car Park	3 x Vehicle	A C	<b>1 x C</b>  <b>2 x O/O</b>	Review  Prevent Access
24.04.2013	<b>Coalville</b>	Car park off Margaret Street	1 (pedestrian)	B	<b>1 x O/O</b>	Review
24.04.2013	<b>Coalville</b>	Car park off High Street	1 (vehicle existing)	B	<b>1 x COMM</b>	Review
24.04.2013	<b>Coalville</b>	Council Offices Car Park	11 (vehicle New includes 1 business) 6 (vehicle existing)	C	<b>16 x O/O</b> <b>1 x C</b>	Formal Agreement
24.04.2013	<b>Coalville</b>	Housing land	1 (vehicle	C	<b>7 x O/O</b>	Formal

		off Belvoir Road/Bridge Road	new) 6 (vehicle existing)			Agreement
24.04.2013	<b>Greenhill</b>	Sharpley Avenue Garage Site	1 (pedestrian)	A	<b>1 x RTB</b>	Letter
24.04.2013	<b>Greenhill</b>	Romans Crescent play Area	1 (pedestrian)	A	<b>1 x O/O</b>	Letter
24.04.2013	<b>Greenhill</b>	Sharpley Avenue recreation ground	11 (pedestrian)	A	<b>11 x O/O</b>	Letter
24.04.2013	<b>Greenhill</b>	Cropston Drive Garage Site	2 (vehicle)	A	<b>1 x T</b> <b>1 x RTB</b>	Amend Tenancy Agreement Letter
24.04.2013	<b>Greenhill</b>	Sharpley Avenue Garage Site	1 (vehicle)	A	<b>1 x RTB</b>	Letter
24.04.2013	<b>Greenhill</b>	Council land off Greenhill Road	1 (vehicle existing)	B	<b>1 x O/O</b>	Review
24.04.2013	<b>Hugglescote</b>	Millfield Recreation Car Park	1 (vehicle)	B	<b>1 x O/O</b>	Review
24.04.2013	<b>Hugglescote</b>	Millfield Recreation Ground access to caravan site	1 (vehicle) business*	B	<b>1 x C</b>	Formal Agreement
24.04.2013	<b>Hugglescote</b>	Council land Adjacent to 1 Tweentown	1 ( vehicle existing)	C	<b>1 x O/O</b>	Formal Agreement
24.04.2013	<b>Ibstock and Heather</b>	Brookside Crescent council land	1 (pedestrian)	A	<b>1 x RTB</b>	Letter
24.04.2013	<b>Ibstock and Heather</b>	Central Avenue Council land	1 (pedestrian) 1 existing (vehicle) 7 new vehicle)	A	<b>2 x O/O</b> <b>3 x T</b> <b>4 X RTB</b>	Letter
24.04.2013	<b>Ibstock and Heather</b>	Leicester Road, Ibstock (24-46)	11 (vehicle) 1 (pedestrian)	A	<b>12 x O/O</b>	Letter
24.04.2013	<b>Ibstock and Heather</b>	Leicester Road, Ibstock (96-126)	11 (vehicle)	A	<b>11 x O/O</b>	Letter
24.04.2013	<b>Ibstock and Heather</b>	Garage site at Sunnyside	5 (pedestrian)	A	<b>5 x T</b>	Amend Tenancy Agreement
24.04.2013	<b>Ibstock and</b>	Land at	1 (vehicle)	A	<b>1 x T</b>	Amend

	<b>Heather</b>	Sunnyside				Tenancy Agreement
24.04.2013	<b>Ibstock and Heather</b>	Council land at Brookside Crescent	1 (vehicle)	B	<b>1 x RTB</b>	Letter
24.04.2013	<b>Ibstock and Heather</b>	Curzon Street Garage site	1 (vehicle)	B	<b>1 x O/O</b>	Review
24.04.2013	<b>Ibstock and Heather</b>	Pretoria Road	2 (vehicle)	A	<b>1 x T</b> <b>1 x RTB</b>	Amend Tenancy Agreement Letter
24.04.2013	<b>Ibstock and Heather</b>	High Street Car Park	1 (New pedestrian)  1 (existing vehicle)	A  C	<b>2 x C</b>	Letter  Formal Agreement
24.04.2013	<b>Measham</b>	New Street Garage Site	3 (New pedestrian)	B	<b>2 x T</b>  <b>1 x RTB</b>	Amend Tenancy Agreement Letter
24.04.2013	<b>Measham</b>	Peggs Close Car Park	1 (vehicle) business*	B	<b>1 x C</b>	Review
24.04.2013	<b>Measham</b>	New Street Garage Site	5 (New vehicle includes 1 business)	C	<b>2 x T</b> <b>2 x RTB</b>  <b>1 x C</b>	Amend Tenancy Letter Formal Agreement
24.04.2013	<b>Moir</b>	Land near Pinecourt garage	1 (vehicle existing)	B	<b>1 x O/O</b>	Review
24.04.2013	<b>Oakthorpe and Donisthorpe</b>	Oakthorpe – Measham Road/School Street	17 (vehicle) 21 (pedestrian)	A	<b>25 x T</b>  <b>13 x RTB</b>	Amend Tenancy Agreement Letter
24.04.2013	<b>Oakthorpe and Donisthorpe</b>	New Street, Donisthorpe	1 (vehicle existing) 1 (pedestrian existing)	C C	<b>2 x O/O</b>	Review
24.04.2013	<b>Ravestone and Packington</b>	Land off Jenny's Lane	1 (vehicle)	B	<b>1 x RTB</b>	Review
24.04.2013	<b>Snibston</b>	Western Avenue Recreation Grounds	6 (pedestrian)	A	<b>3 x T</b>  <b>1 x RTB</b> <b>2 x O/O</b>	Amend Tenancy Agreement Letter
24.04.2013	<b>Thringstone</b>	Melrose	5	A	<b>3 x T</b>	Amend

		Road Recreation Grounds	(pedestrian)			Tenancy Agreement
					<b>2 x RTB</b>	Letter
24.04.2013	<b>Thringstone</b>	Clyde Court Garage Site	6 (vehicle) 10 (pedestrian)	B	<b>7 x T</b>	Amend Tenancy Agreement
					<b>9 x RTB</b>	Letter
24.04.2013	<b>Valley</b>	St Georges Hill Garage Site	2 (vehicle) 1 pedestrian 1 (vehicle existing)	B	<b>1 x T</b>	Amend Tenancy Agreement
					<b>3 x RTB</b>	Letter
24.04.2013	<b>Whitwick</b>	Hermitage Road Recreation Ground	5 (pedestrian)	A	<b>5 x O/O</b>	Letter
24.04.2013	<b>Whitwick</b>	Land at the rear of Rosslyn Road (City of Dan)	8 (pedestrian)	A	<b>8 x O/O</b>	Review
24.04.2013	Whitwick	George Street / Hall Lane, Whitwick	16 (pedestrian)	A	9 x T 7 x RTB	Amend Tenancy Agreement Letter
24.04.2013	<b>Whitwick</b>	Hermitage Leisure Centre Car Park	1 (vehicle)	B	<b>1 O/O</b>	Review
24.04.2013	<b>Whitwick</b>	384 Hall Lane (access through sharpley Avenue garage site)	1 (vehicle)	B	<b>1 x T</b>	Amend Tenancy Agreement
24.04.2013	<b>Whitwick</b>	Hall Lane/George Street former garage site	7 ( New vehicle) 2 (existing vehicle)	C	<b>5 x T</b> <b>4 x RTB</b>	Amend Tenancy Agreement Letter
24.04.2013	<b>Whitwick</b>	Church Lane Cemetery	5 (vehicle) 2 (vehicle existing)	C	<b>7 x O/O</b>	Review
<b>Total Vehicle</b>		<b>135</b>				
<b>Total Pedestrian</b>		<b>118</b>				
		<b>253</b>				
<b>Total A</b>		<b>153</b>				
<b>Total B</b>		<b>48</b>				
<b>Total C</b>		<b>52</b>				
		<b>253</b>				
<b>Tenants (T)</b>		<b>77</b>				
<b>Right to Buy (RTB)</b>		<b>57</b>				
<b>Owner Occupiers (O/O)</b>		<b>104</b>				
<b>Commercial</b>		<b>15</b>				

	<b>253</b>		<b>New</b>	<b>Existing</b>
<b>Amend Tenancy</b>	<b>77</b>		<b>77</b>	
<b>RTB Letter</b>	<b>56</b>		<b>53</b>	<b>3</b>
<b>Owner Occupier Letter</b>	<b>54</b>		<b>53</b>	<b>1</b>
<b>Formal Agreement</b>	<b>35</b>		<b>21</b>	<b>14</b>
<b>Further Review</b>	<b>29</b>		<b>20</b>	<b>9</b>
<b>Restrict Access</b>	<b>2</b>		<b>2</b>	
	<b>253</b>		<b>226</b>	<b>27</b>

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## CABINET - 31 OCTOBER 2012

Title of report	<b>EFFECTIVE ASSET MANAGEMENT - REVIEW OF LEASES AND LICENSES</b>
Key Decision	a) Financial No b) Community Yes
Contacts	Councillor Nick Rushton 01530 412059 <a href="mailto:nicholas.rushton@nwleicestershire.gov.uk">nicholas.rushton@nwleicestershire.gov.uk</a>  Chief Executive 01530 4545500 <a href="mailto:christine.fisher@nwleicestershire.gov.uk">christine.fisher@nwleicestershire.gov.uk</a>  Head of Finance 01530 454520 <a href="mailto:ray.bowmer@nwleicestershire.gov.uk">ray.bowmer@nwleicestershire.gov.uk</a>
Purpose of report	To seek cabinet approval to progress the recommendations identified in a review that has been undertaken on the leases and licences.
Reason for Decision	If the recommendations in the review are approved it will give the District Council the opportunity to control the use of its assets and formalise any access rights granted. It will also give the District Council the opportunity to prevent issues of land sterilisation and ensure that residents using the council's land who have the benefit of a licence are treated equitably in terms of the fee.
Council Priorities	Value for Money
Financial/Staff	There is significant additional revenue to be realised from licences granted at open market rates. The council is currently generating £8,436 per annum from its existing licences. This could increase to up to £33,000 within four years if the recommendations of this review are implemented.

Link to relevant CAT	Not applicable
Risk Management	A risk register is available in Appendix B
Equalities Impact Assessment	This review will ensure that any licence fees that are applied by the District are fair and consistent to the general public.
Human Rights	None discernable from the report
Transformational Government	Not applicable
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	As author of the report, the report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	Asset Management Group Licences Working Group Corporate Leadership Team
Background papers	There are no background papers
Recommendations	<b>THAT CABINET APPROVES THE RECOMMENDATIONS OF THE REVIEW, AUTHORITY BE DELEGATED TO S151 OFFICER IN CONSULTATION WITH CORPORATE PORTFOLIO HOLDER TO IMPLEMENT THEM.</b>

## 1.0 BACKGROUND

- 1.1 The District Council owns numerous sites around the district over which public, local residents or organisations gain vehicular or pedestrian access for which an access licence is required from the Council. The Council also provides licences for the use of land for recreational and grazing purposes which are dealt with upon request. The council currently has an inconsistent approach to these arrangements in terms of requiring a formal agreement and reviewing the licences. The council proposes to regularise this to ensure that the fees charged are consistent with the type of access licence being granted. Furthermore, it will give the council the opportunity to control the

use of its assets by formalising any access rights being made and to guard against the risk of land sterilisation. Regular reviews of the use of its assets is something that a prudent landowner would do.

- 1.2 The findings from this review have suggested that current licence fees have not been reviewed for several years and therefore the existing licences are being charged below the market value. The administration costs in producing some of these licences are outweighing the licence fee that is being generated from them.
- 1.3 Furthermore, survey work undertaken has also identified that there are many people gaining unauthorised access over District Council owned land without a licence and this review is to ensure residents using the council's land have the benefit of a licence and treated equitably in terms of the fee and also to prevent issues of land sterilisation. In the majority of cases of unauthorised use the District Council will be happy to grant an access licence subject to a payment of a licence fee.
- 1.4 The District Council proposes to review existing licences by having them valued by an independent Valuer at open market rate. In order to make it more cost efficient for the council and to ensure that licence fees applied are fair and consistent with the type of access being granted; the licence group reviewed all the different type of access required and established six beacon groupings for the different type of licences that had been identified. Each group has been allocated a fee as detailed in Appendix A .The District Valuer has recommended that Group 4 is broken down into further sub groups to reflect the rateable values that should be applied to determine licence fees for non domestic properties accessing council land. This beacon approach will be applied for existing licences but the fees will be charged incrementally over three years. For licences and leases which are for rent of land rather than access, it will be necessary to value them separately as the size, and type of land will determine the licence fee. In isolated number of cases where licence requirements are not in alignment with the description of one of the six groups it will be managed on a site by site basis.
- 1.5 An Officer has been appointed from each service area who will be responsible for establishing where unauthorised access is being gained and advising Property Services of any new licence requirements. Property Services will administer existing and new licences and provide the Project Management and technical support for the project. Property Services will inform the appropriate Officer of any rejected licence offers and the Officer will be responsible for ensuring that there is no further access across council land with support from Legal and Property Services.

## **2.0 SUMMARY OF PROPOSED SCHEME**

2.1 To summarise the Licences and Leases review includes:

- Officers from each service area will identify licence requirements and inform property services.
- The Parish/District Councillors will be informed of the review.

- A Communications Strategy will be developed to respond to any queries or concerns and Customer Services will be involved with the review and therefore able to deal with any enquiries
- The District Valuer will value the beacons to determine Licence Fees. Any new leases/licences requests for rent of land will be determined by the Asset Management Group.
- New access Licences will be implemented in year 1, Residents will be informed about the review and invited to apply for one. Should they decide not to apply for a licence and continue to use the access steps will be taken to bring the use to an end.
- Property services will prepare Heads of Terms for the licences for approval by the Licences Working Group. Legal Services will prepare the Licence agreement templates which will be used to issue new and existing Licences.
- Officers from each service area will be informed of implemented Licences and those who do not wish to apply for one.
- Existing Licence holders will be informed of the review in year 2 and licence fees will be introduced incrementally.

### 3.0 TIMESCALES

- 3.1 It is proposed that new licences will be implemented in year 1 and existing licences will be reviewed in year 2. This is to reduce the impact and to ensure that the council are able to protect and control the use of its assets by formalising any access rights granted immediately.

### 4.0 FINANCIAL IMPLICATIONS

- 4.1 The table below compares the income that can be generated if this review is progressed and if all potential licences are implemented using the beacon approach (please refer to appendix A) with the income that would be generated if we decided not to progress this review allowing a small increase to the existing licences.

	No. of Current Licenses	Existing income	No. of new Proposed Licenses	Proposed Income	Additional Income
2013/2014	45	£8436	214	£25,651	£17,215
2014/2015	45	£8608	214	£27,557	£18,949
2015/2016	45	£8783	214	£30,323	£21,360
2016/2017	45	£8963	214	£32,899	£23,936

## Appendix A

Group No	Type of Access	License Fee	No. of Existing Licenses	No. of New Licences	Year 1 2013/14	Year 2 2014/15	Year 3 2015/16	Year 4 2016/17
1	Pedestrian access to dwelling over private land	Current Annual Fee: 35 (year1)  New Annual Fee: £20	2	64	<b>£1350</b>  $(64 * 20 = 1280$ $2 * 35 = 70)$	<b>£1320</b>  (66*20)	<b>£1320</b>  (66*20)	<b>£1320</b>  (66*20)
2	Pedestrian access to dwelling over public land	New Annual Fee: £20	0	45	<b>£900</b>  $(45*20)$	<b>£900</b>  $(45*20)$	<b>£900</b>  $(45*20)$	<b>£900</b>  $(45*20)$
3	Vehicular Access over private land to dwelling	Current Annual Fee £35 (year1)  New Annual Fee: £90  Year 2: £35 Year 3: £70 Year 4: £90	17	70	<b>£6895</b>  $70 * 90 = 6,300 + 17 * 35 = 595$	<b>£6895</b>  $70 * 90 = 6,300 + 17 * 35 = 595$	<b>£7490</b>  $70 * 90 = 6,300 + 17 * 70 =$	<b>£7,830</b>  $70 * 90 = £6,300 + 17 * 90 = £1530$
4	Vehicular Access Over council land to non domestic property	See below for sub groups within Beacon 4  Current £35	2	20	<b>£7055</b>  $(6985 + 70)$	<b>£7,215</b>  (6985 + 230)	<b>£7435</b>  (6985 +450)	<b>£7685</b>  (6985 +700)
5	Vehicular Access over Public land to Hardstanding	Current Fee:£35 (year1)  Annual Fee: £90	1	5	<b>£485</b>  $(5*90 = 450 + 35)$	<b>£485</b>  $(5*90 = 450 + 35)$	<b>£520</b>  $(5*90 + 70)$	<b>£540</b>  $(5*90 +90)$

		Year 2: £35 Year 3: £70 Year 4: £90						
6	Vehicular Access over public land to garage	Current Fee: £35 (year1)  Annual Fee: £130 Year 2: £40 Year 3: £80 Year 4: £130	4	10	<b>£1,440</b>  <b>(10*130 = 1300+35*4 = 140)</b>	<b>£1,460</b>  (10*130 = 1300 +4*40)	<b>£1620</b>  (10*130 = 1300 +4*80)	<b>£1820</b>  (10*130 = 1300 +4*130 = )
	Rent of Council land  (Predicted rental income of land on a site by site basis which will be valued in year 2014/15)	Predicted income:  Current income: £7,526 (year1)  Year 2 - £9,282 Year 3 - £11,038 Year 4 - £12,794	19	0	<b>£7,526</b>	<b>£9282</b>	<b>£11,038</b>	<b>£12,794</b>
	<b>Total</b>		<b>45</b>	<b>214</b>	<b>£25651</b>	<b>£27,557</b>	<b>£30,323</b>	<b>£32,889</b>

#### Subgroups within Beacon 4

Group 4	Licence Type	Rateable Value Up to	Annual Licence Fee
	Access over council land to club/public Service	£5,000	£120 Year 1 - £40 Year 2 - £80 Year 3 - £120
	Access over council land to club/public Service	£7,500	£175 Year 1 - £60 Year 2 - £120 Year 3 - £175
	Access over council land to club/public Service	£10,000	£235 Year 1 - £80 Year 2 - £180 Year 3 - £235
	Access over council land to club/public Service	£12,500	£290 Year 1 - £100 Year 2 - £200 Year 3 - £290
	Access over council land to club/public Service	£15,000	£350 Year 1 - £120 Year 2 - £240 Year 3 - £350
	Access over council land to club/public Service	£17,500	£400 Year 1 - £140 Year 2 - £280 Year 3 - £400
	Access over council land to club/public Service	£20,000	£450 Year 1 - £150 Year 2 - £300 Year 3 - £450
	Access over council land to club/public Service	Over £20,000	£500 Year 1 - £170 Year 2 - £350 Year 3 - £500

Group 4	Licence Type	Rateable Value Up to	Group 4
	Access over council land to private commercial property	£5,000	£140 Year 1 - £40 Year 2 - £80 Year 3 - £140
	Access over council land to private commercial property	£7,500	£210 Year 1 - £70 Year 2 - £140 Year 3 - £210
	Access over council land to private commercial property	£10,000	£280 Year 1 - £90 Year 2 - £180 Year 3 - £210
	Access over council land to private commercial property	£12,500	£350 Year 1 - £120 Year 2 - £240 Year 3 - £350
	Access over council land to private commercial property	£15,000	£420 Year 1 - £140 Year 2 - £280 Year 3 - £420
	Access over council land to private commercial property	£17,500	£490 Year 1 - £160 Year 2 - £330 Year 3 - £490
	Access over council land to private commercial property	£20,000	£560 Year 1 - £190 Year 2 - £370 Year 3 - £560
	Access over council land to private commercial property	Over £20,000	£600 Year 1 - £200 Year 2 - £400 Year 3 - £600

## Appendix B

### Risk Register

Risk	Impact	Probability	Control
Claims for prescriptive rights	High	Medium	Communicating the council's objection to unauthorised access as soon as possible
Sterilisation of council land	High	Medium	Communicating the council's objection to unauthorised access as soon as possible Ensuring defective title insurance is in place should we decide to develop the land. However this can be quite costly.
Costs incurred will outweigh the income generated	Medium	Medium	Ensuring the district Valuer is provided with as much information as possible in order to keep his fees to an absolute minimum
Negative PR	High	High	A communications plan is drawn up and potential licensees are consulted about the review.

## APPENDIX 4

MINUTES of a meeting of the POLICY DEVELOPMENT GROUP held in the Council Chamber, Council Offices, Coalville on THURSDAY, 23RD MAY, 2013

Present: Councillor J G Coxon (Chairman)

Councillors N Clarke, J Cotterill (left at 7.18pm), D Everitt, V Richichi, A C Saffell, S Sheahan, N Smith, M Specht and R Adams (Substitute for Councillor Geary)

Officers: Ray Bowmer, Head of Finance, Christine Fisher, Chief Executive, Dave Gill, Legal Services Team Manager and Deputy Monitoring Officer, Simon Harvey, Property Asset Manager and Melanie Phillips, Democratic and Support Services Team Manager

### 1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor J Geary.

### 2. DECLARATION OF INTERESTS

The following disclosable non pecuniary interests were declared:-

Councillor Coxon - Agenda Item 5 (Access Licences) for reasons of his interest in Brook Street Car Park.

Councillor S Sheahan - Agenda Item 5 (Access Licences) for reasons of him and his group having already taken a view.

### 3. PUBLIC QUESTION AND ANSWER SESSION

No questions were received.

### 4. MINUTES

RESOLVED THAT:

The minutes of the meeting held on 19 March 2013 be approved as a correct record and signed by the Chairman.

### 5. EFFECTIVE ASSET MANAGEMENT - ACCESS LICENCES

The Head of Finance introduced his report which follows the last meeting of the Group held on 19 March when it was agreed that a site specific review of the access licences be undertaken. A replacement page to the report was circulated at the meeting which showed the updated figures on the outcomes of the reviews of the 253 properties which had been detailed in Appendix 2 of the report.

The Head of Finance explained that the objectives of the review were to confirm ownership of the land, confirm whether the Council's permission was required to gain access over it, provide fair and equitable solutions to both residents' and businesses' access needs and to propose fair and equitable charges where licences are required. He went on to explain that officers undertook a review and engaged with Ward Members

Chairman's initials

who were able to provide views on local issues and comments made by local people. He added that there also needed to be a degree of objectivity and therefore criteria had been set in this regard. Each of the criteria was weighted and scored so that the higher the overall score, the higher the priority that a form of formal access arrangement was required. The lower the score, the lesser the necessity for formal arrangements.

The Head of Finance explained the details around the outcomes of the reviews. It was noted that the Legal department had confirmed that all the land in question was within the ownership of the Council and that permission was required to access it. It was further noted that land lease arrangements were excluded from the reviews, as requested by the Policy Development Group at its last meeting.

The Group was advised that the outcome of the reviews showed that for 77 Council dwellings, access rights could be clarified by amending the tenancy agreements and a review of tenancy agreements was already planned for 2014. The access rights to 51 former Council dwellings purchased under the Right to Buy scheme were not formalised at the time of transfer and this would now be confirmed in a letter from the Council. Members were also advised that the Council would confirm in writing to 55 private residents that they may continue to gain access across its land and will offer discussion on formalising this arrangement, if required by residents. For eight privately owned residential properties, the Council believes that an access licence is required. For three commercial properties, the Council believes that an access licence is required and in the case of two properties, it was agreed that enforcement action was appropriate to restrict the access. Meetings with Members had helped to identify a further 57 properties where there was a need for further consultation before completing the review. There were two properties for which it was considered that enforcement action was necessary. In summary, it was noted that there were 183 properties where it was deemed relatively straightforward for them to be dealt with. Consideration therefore had to be given to what, if any, charge to apply in relation to those properties which had been identified as requiring a licence.

The Chairman sought clarification that those residents who had received letters would not be asked to pay.

The Head of Finance confirmed that where it had been identified that no licence was necessary, there would be no charge.

The Chairman then invited Members to ask questions.

Councillor Sheahan referred to the figures in the report not matching those which had been reported at the meeting. It became apparent that the updated figures had been included on the back of the additional paper which had been circulated at the meeting and it was these figures which Members should now be referring to.

Councillor Sheahan asked whether the occupiers who were being written to, would be under any obligation to commit to any agreement.

The Legal Services Team Manager replied that it was his understanding that there would be no requirement for them to make any commitment and that the tenancies would be amended with no obligation but if the residents wished to enter into an agreement they could do so and would be encouraged to seek their own legal advice.

Councillor Sheahan asked if there would be a charge for this agreement, and the Legal Services Team Manager responded by stating that he was not aware that there would be a charge.

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Councillor Sheahan asked whether officers would object to there being no charge in view of the fact that any enforcement action as a result of non payment could outweigh the charge.

The Head of Finance advised that the original recommendation of Cabinet was to charge the market rate as there is a value attached to the property as a result of having a licence. The suggested charge of £35.00 was merely to recover any administration costs.

Councillor Sheahan moved that officers take the necessary actions to formalise access arrangements with regard to the 183 properties identified as being relatively straightforward to deal with.

The Chairman sought clarification that the recommendations identified as (1), (2) and (3) were being moved and this was confirmed.

This was seconded by Councillor Saffell and on being put to vote it was unanimously CARRIED.

Councillor Clarke then moved that there should be no charge for residential properties and a £35.00 charge for commercial properties. This was seconded by Councillor Adams.

Councillor Everitt reported that it would be unjust to put any further financial pressures on local residents.

Councillor Smith reported that in the interests of fairness, a charge should be imposed if not only to prevent others from having to pick up the tab for what essentially gives the houseowner a huge financial advantage.

The Chairman reported that it could be argued that £35.00 seems a reasonable charge and offers value for money given that there is financial advantage to be gained by having an access licence.

Councillor Clarke reported that having no charge sends out a positive message and would improve the reputation of the Council.

Councillor Saffell advised that administering the licences would incur a cost to the Council and at the very least this should be recovered so as not to pass this financial burden on to others.

Councillor Smith stated that by not charging for the licences it would go against the view of the district valuer.

Councillor Sheahan referred to the risk assessment set out on page 33 of the agenda which clearly stated that the costs being incurred outweighing the income generated would be a medium risk. However, negative publicity for the Authority would be a high risk. He also stated that enforcement would be an issue should a resident refuse to pay and he therefore supported the motion put forward by Councillor Clarke. He added that he understood Councillor Saffell's argument but he could not see how this would work.

Councillor Richichi asked whether residents could claim land ownership should they decide to adopt it.

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The Legal Services Team Manager advised that any claim to prescriptive rights would be halted once the letter had been sent.

The motion was put to the vote and the vote being 4 for and 5 against with one abstention, the motion was LOST.

Councillor Saffell moved that where a licence was required, a charge of £35.00 should be made across the board. This was seconded by Councillor Cotterill.

On being put to the vote, the vote being 4 for and 4 against with 2 abstentions, the Chairman used his casting vote and subsequently the motion was CARRIED.

RESOLVED THAT:

Cabinet be recommended to:-

- (1) Confirm all land being accessed is owned by the Council.
- (2) Confirm that the Council's permission is required to gain access over this land
- (3) Agree that officers take the necessary actions set out in paragraph 3 of the report to formalise access arrangements with regard to the 183 properties identified as being relatively straightforward to deal with;
- (4) Agree that where licences are required, a £35.00 charged be applied for both domestic and non domestic properties.

## **6. UPDATE OF THE COUNCIL'S CONSTITUTION**

The Deputy Monitoring Officer introduced the report on recent legislative and organisational changes which require the Constitution to be updated. The report will need the approval of Council and Members of the Policy Development Group were asked to let the Monitoring Officer know of any comments they may have.

Councillor Sheahan asked for the reasons for the request to increase the number of Cabinet meetings to 11 and asked whether this was because there had been difficulties in arranging meetings in the past.

The Chief Executive advised that the reason for the request was following concerns by officers that the period between meetings was sometimes too long and it was far better to have all the meetings scheduled in as opposed to trying to arrange them ad hoc.

Councillor Saffell referred to an error in the appendix to the report where it referred to the Highways Act 1990 as this should read Highways Act 1980.

Councillor Clarke asked when the threshold for write-offs had been set at £1,000 as it appeared that a jump to £10,000 was quite significant.

The Legal Services Manager advised that the threshold of £1,000 was in place when he started work at the Council back in the early 1990s and he understood then that it had been in place for some time.

Councillor Clarke advised that this put some perspective to it and £10,000 therefore did not seem too bad.

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RESOLVED THAT:

The draft Council report on the update to the Council's Constitution be agreed subject to the amendment to the appendix, as referred to above.

**7. ITEMS FOR INCLUSION IN THE FUTURE WORK PROGRAMME**

Consideration was given to the future work programme for the Policy Development Group.

On considering the inclusion of 'Delivering Growth and Prosperity in Coalville' it was noted that a report would be going to Cabinet in June. However it was felt that a discussion report to the next meeting would be welcomed and it mattered not if this was before or after it had been to Cabinet.

RESOLVED THAT:

The following items be included in the work plan:

- (1) Delivering Growth and Prosperity in Coalville (both revised policy on S106 agreements and Council loan opportunities).
- (2) Prevention of Homelessness Strategy 2013-2018

The meeting commenced at 6.30pm and closed at 7.22pm.

Chairman's initials