

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**POLICY DEVELOPMENT GROUP – 23 MAY 2013**

Title of report	<b>EFFECTIVE ASSET MANAGEMENT – ACCESS LICENCES</b>
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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
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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.