

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 29 MARCH 2011

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**Title:**

**LICENCE FOR USE OF CAR PARK LAND**

**[Portfolio Holder: Councillor Carole King  
[Wards Affected: All]]**

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**Summary and purpose:**

Permission for third parties to use the Council's car park land requires consent. Currently any fee requested by this Council for permission to use car park land is applied on a discretionary and 'ad hoc' basis. The purpose of this report is to propose a formal framework for the consideration of applications, both to protect Waverley's property and interests, and to ensure that a consistent approach and equitable charges are applied in all cases into the future.

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**How this report relates to the Council's Corporate Priorities:**

The recommendations in this report will help to provide value for money.

**Equality and Diversity Implications:**

There are no equality and diversity implications arising from this report.

**Resource/Value for Money implications:**

The proposals ensure value for money.

**Legal Implications:**

There are no legal implications.

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**Background**

1. Waverley Borough Council pay and display car park charges apply between the hours of 8am and 6pm Monday to Saturday. Outside the charging hours, and including Sundays, motorists may currently park free of charge.
2. When pay and display parking is not in operation, a car park can provide a large open space where organised events and activities can be held. In addition, even when pay and display parking is in operation, car parks provide a busy area where promotional and marketing activities would receive high visibility.

3. Many car parks are situated within a main shopping centre with adjoining residential and business premises. Access to adjoining property can prove difficult and in some cases impossible to achieve without crossing or making use of car park land. Furthermore, utility companies require access across car park land occasionally to undertake new utility works or maintenance, and Waverley from time to time attracts the interest of the advertising, leisure and film industry.
4. For these reasons, the Council receives many and varied requests for use of its car park land in any given year.

### **Requests to use car park land**

5. Historically, the requests we have received to use our car park land have fallen into the following categories:
  - a) Fundraising, non-profit making – small scale event
  - b) Fundraising non profit making- large scale events
  - c) Health awareness
  - d) Safety awareness
  - e) Tourism and leisure
  - f) Commercial enterprise
  - g) Resident – property access
  - h) Business – property access
  - i) Wayleaves
  - j) Utilities/compounds and essential works
6. As previously mentioned, these requests have historically been managed on an 'ad-hoc' basis with no real consistency of approach in terms of fees charged, or conditions of use.
7. This means that, not only is the Council not always recovering its costs associated with permitting or managing an event or access arrangement, but also that issues of liability, etc, are not always adequately addressed and agreed- potentially leaving both the Council and the event organiser somewhat exposed.

### **Managing applications**

8. The process of dealing with applications for use of car park land is largely an administrative one that includes diary management, information exchange, preparation of a licence and an assessment of risk. In some cases car park site meetings and inspections may be needed before permission can be granted.
9. Supervision of works may also be needed for some activities- particularly those relating to development activity at adjacent sites. A car park inspection is required after such works have taken place to identify any problems as a result of the activity and ensure maximum use of parking space.

## **Current approach to charging for use of car park land**

10. Any fees charged for use of car park land are currently arbitrary, and there is currently no fee for processing an application. The majority of applications for car park use are for non-profit making activity, and charges are generally only applied where the event reduces car park income potential. Even in such cases though, it has sometimes been considered appropriate to waive charges relating to lost income.

## **Proposed approach**

11. As previously stated, it is felt that the current 'ad-hoc' approach to permitting activities on car park land results in an inequitable situation where different events may be treated differently depending on when and where they are taking place. It also means that, often, issues of liability are not sufficiently addressed- potentially leaving both the Council and the event organisers exposed should something happen.
12. Taking this into account, it is felt that the current decision making process would be much improved if guidance were clearly set out and a risk assessment completed as a matter of course.
13. Furthermore, in order to cover the costs of administering the formal application process, it is felt that it would be prudent to introduce a minimum fee to be charged to all applicants (except small fundraising, and health and safety-awareness events), initially of £50 per application.
14. The flow-chart at Annexe 1 sets out in pictorial form a proposed approach to charging for use of car park land and gives a range of options, depending upon the nature of the event/ request and whether or not it is to take place during normal charging times.
15. The draft 'Car Park Use policy' at Annexe 2 sets out the headline terms and conditions that would apply to any such use.
16. If granted, the consent to use car park land should be in the form of a formal licence agreement which reflects the principles set out in these two documents.

## **Conclusion**

17. The primary purpose of the Council's car parking land is to provide parking space. If car parks are used for other purposes then applications should be evaluated against written guidance to promote a fair and consistent approach to decision making.
18. The issuing of a Licence will provide some insurance against possible damages arising from an event held on car park land, including injury or damage to third parties. It will also reduce the risk of a third party acquiring rights on land that Waverley owns.

19. A reasonable approach should be taken when applying fees and charges so that small fundraising events are not prevented from taking place. Authority to take a reasonable approach should be delegated to the Portfolio Holder for Parking.

### **Recommendation**

It is proposed that with effect from 1 April 2011:

1. the guidance set out at Annexes 1 & 2, is followed when consideration is given to an application for use of car park land;
2. consent shall be only in the form of a licence;
3. the minimum fee for a car park use licence will be set at £50, with additional charges applied on an actual costs basis, as appropriate, to take account of loss of income, duration, scale, and nature of the event, and;
4. authority to waive the minimum charge will be at the discretion of the Section 151 Officer.

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### **Background Papers**

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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