



<b>Service Delivery Committee</b>	<b>Tuesday, 28 January 2020</b>	<b>Matter for Information and Decision</b>
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**Report Title:** **Footpath at Tendring Drive, Wigston Update (January 2020)**

**Report Author(s):** **David Gill (Head of Law & Democracy / Monitoring Officer)**

<b>Purpose of Report:</b>	To update Members on the proposed transfer of the footpath at Tendring Drive, Wigston.
<b>Report Summary:</b>	The report provides Members with an update on the actions to date to facilitate the proposed transfer.
<b>Recommendation(s):</b>	<b>That the content of the report be noted and that Members provide Officers with direction as to how this matter proceeds.</b>
<b>Senior Leadership, Head of Service, Manager, Officer and Other Contact(s):</b>	Stephen Hinds (Deputy Chief Executive) (0116) 257 2681 <a href="mailto:stephen.hinds@oadby-wigston.gov.uk">stephen.hinds@oadby-wigston.gov.uk</a>  David Gill (Head of Law & Democracy / Monitoring Officer) (0116) 257 2626 <a href="mailto:david.gill@oadby-wigston.gov.uk">david.gill@oadby-wigston.gov.uk</a>
<b>Corporate Objectives:</b>	Providing Excellent Services (CO3)
<b>Vision and Values:</b>	Customer Focus (V5)
<b>Report Implications:-</b>	
Legal:	The implications are as set out at paragraph 2 of this report.
Financial:	The implications are as set out at paragraph 3 of this report.
Corporate Risk Management:	Reputation Damage (CR4)
Equalities and Equalities Assessment (EA):	There are no implications arising from this report. EA not applicable
Human Rights:	There are no implications arising from this report.
Health and Safety:	The implications are as set out at paragraph 3.6 of this report.
<b>Statutory Officers' Comments:-</b>	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.
Monitoring Officer:	As the author, the report is satisfactory.
<b>Consultees:</b>	None.

<b>Background Papers:</b>	None.
<b>Appendices:</b>	None.

## **1. Background**

- 1.1. As far back as at least October 2010 the Council resolved to accept the transfer of the footpath from Tendring Drive to Glenmere Primary School along with all liabilities and future maintenance for the footpath and the fencing on either side of the footpath. In addition the Council also undertook to pay the costs of both the County Council and the school.
- 1.2. In August 2011 Leicestershire County Council, the landowner, outlined proposed terms of transfer which were agreed by the Council on 27 April 2012 subject to the Council obtaining planning permission for the removal of the condition on the existing planning permission that restricted the use of the path to pupils of Glenmere School.
- 1.3. Enquiries have revealed that an initial application to remove that condition was submitted in May 2012 and subsequently withdrawn.
- 1.4. A further application to vary the condition was considered by the Development Control Committee on 17 November 2016 when Members approved a temporary 2 year permission. That permission has not yet been implemented and has lapsed for the reasons set out below.

## **2. Current Legal Position**

- 2.1. The legal work to effect the transfer has been undertaken by North West Leicestershire District Council (NWLDC) and despite repeated attempts they have been unable to complete the transfer. The land is currently held on a lease by the school and before the County Council can transfer the land to the Council the School will need to surrender the relevant section of the lease. Because the area of land to be surrender is more than 50 sq metres the school (which has now converted to academy status) will require the consent of the Secretary of State for Education. The approval of such consents generally takes 3-6 months from submission.
- 2.2. Despite the best efforts of the legal team at NWLDC the County Council have not engaged with the process and the transaction is currently stalled.
- 2.3. If members were minded for this matter to proceed then a further application for a Variation of the Condition would have to be made.

## **3. Current Position on Costs and Future Liabilities**

- 3.1. To date the Council has incurred legal costs estimated in trying to progress the matter and should it proceed to completion will be liable for the costs of the County Council and the Academy expected to be in the region of £7,500 -£10,000.
- 3.2. In addition the footpath will require on-going maintenance and initial estimates of the work involved to remove and reposition the gate, re-surfacing the footpath within the next 3 years and replacement of the fencing within the next 5 years total in the region of £20,000 at today's prices.
- 3.3. In addition reference was made at Development Control Committee that lighting should be provided on the footpath once adopted. Such lighting is likely to consist of at least 3/4 standard lighting columns (subject to the level of illumination required). Rough estimates

for the provision of a standard street lighting column including service connection are in the region of £3,000 per column (i.e. £9-12K).

- 3.4. The overall cost of installation will vary depending on the length of ducting needed and the location of the closest electricity source. Ducting can cost up to £120 per metre. The path is approximately 245 metres in length so the potential cost is in the region of £30,000.
- 3.5. Overall the potential costs liability to complete the transaction over the next 5 years is in the region of £65,000 - £75,000 excluding officer time to manage the contractual and maintenance issues.
- 3.6. It should also be noted that if the transfer were to be completed the Council would assume all liability for any and all users of the path and there may well be a consequential 'knock-on' effect on the Council's public liability insurance and the possibility of increased personal accident claims.
- 3.7. Given the passage of time there is no identified funding available and the planning permission has expired. If this matter were to proceed then it would require a new planning application and a future capital bid to apply for the funding.

#### **4. Recommendation**

- 4.1 That the content of the report be noted and that Members provide officers with direction as to how this matter proceeds.