

**REPORT TO:** East Lothian Council

**MEETING DATE:** 18 December 2012

**BY:** Executive Director (Services for Communities)

**SUBJECT:** Introduction of Parking Charges at Coastal Car Parks

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## **1 PURPOSE**

- 1.1 To seek approval of the introduction of parking charges at ten coastal car parks.

## **2 RECOMMENDATIONS**

- 2.1 Council is asked to:
- 1) Note the content of the report
  - 2) Approve the introduction of parking charges at coastal car parks under the statutory powers in Section 35 of the Road Traffic Regulation Act 1984
  - 3) Commence the statutory procedure to promote a Traffic Regulation Order prohibiting parking within designated coastal car parks without payment of the charge, and associated waiting, loading and unloading restrictions on the surrounding road network.
  - 4) Approve the revocation of the Parking Pace Regulations currently in place for Gullane Bents, Yellowcraig and Longniddry Bents
  - 5) Note the two online petitions opposing the introduction of charges at coastal car parks (para 3.11)

## **3 BACKGROUND**

- 3.1 Officers have been asked to review the Council decision taken at the meeting of 28 October 2008 when it was agreed not to progress with the

introduction of parking charges at each of East Lothian`s 13 coastal car parks:

- Longniddry Bents No. 1
- Longniddry Bents No. 2
- Longniddry Bents No. 3
- Aberlady Bay Local Nature Reserve
- Gullane Bents
- Yellowcraig
- John Muir Country Park - Linkfield
- John Muir Country Park - Shore Road
- John Muir Country Park - Tynninghame Links
- Skateraw
- White Sands
- Barns Ness
- Thorntonloch

3.2 The Council owns seven of the car parks, with the management of the other six being undertaken by the Council through either a Management or Access Agreement between the Council and the landowner. Agreement to introduce charging to these car parks will have to be agreed with the respective landowners.

### 3.3 **Legal Position**

3.3.1 In the report to Cabinet on 13 June 2006 it was advised that there two statutory power options that could be used as the basis for the provision of “pay-to-use” off - street car parking. These were as follows:-

- Section 32 of the Road Traffic Regulation Act 1984, where this is for the purpose of relieving or preventing congestion of traffic and would require the making of Statutory Orders that would have to be approved by Scottish Ministers
- Section 20 of the Local Government in Scotland Act 2003 - Power to Advance Well-being

3.3.2 The proposals, in both the 13 June 2006 and 8 April 2008, Cabinet reports was that the statutory power that should be used to introduce the

charges lay in Section 20 of the Local Government (Scotland) Act 2003 under the Power to Advance Wellbeing, rather than under the Road Traffic Regulation Act 1984.

However, there are limitations to the introduction of charges under Section 22 of the Local Government (Scotland) Act. There is a lack of flexibility on how the income raised can be spent. S22(7) provides that the power under Section 20 does not enable a local authority to do anything for the purpose of enabling the authority to raise money by levying or imposing any form of tax or charge, by borrowing or otherwise. However, under S22 (8) nothing in Section 22(7) prevents a local authority from imposing reasonable charges for anything done by the authority under Section 20. In this case the provision of improved car parking and facilities at coastal car parks would be the primary purpose, with the charge being the secondary element required to recover the costs incurred in making the improvements.

3.3.3 In light of these limitations, the provisions of the Road Traffic Regulation Act 1984 have been looked at again, in particular Sections 32 and 35:

- Section 32 – this section provides that the Council may introduce off-street parking places where this is necessary for the purposes of relieving or preventing congestion of traffic.
- Section 35 – this section gives the Council power to impose conditions on the use of off-street parking places, including the levying of charges for the use of the parking places, all pursuant to a Traffic Regulation Order made for this purpose.

It is considered that charges for off-street parking could be introduced under Section 35 of the Act as the car parks have already been established in accordance with Section 32 in order to alleviate congestion. The advantages of introducing the charges under the Road Traffic Regulation Act are greater flexibility as to the level of funds generated and the potential use of any surplus funds for the management and maintenance of the car parks as set out in the statement of reason below for the introduction of charges under a Traffic Regulation Order.

3.3.4 It is an offence under Section 35A of the Road Traffic Regulation Act for someone to breach a TRO. This includes the non-payment of the charge. A fixed penalty notice for such an offence can be issued under the Road Traffic Offenders Act 1988. As parking without paying the charges is a criminal offence the non-payment of the parking charge is enforced by the police and traffic warden service.

3.3.5 In order to introduce charging a Traffic Regulation Order (TRO) requires to be introduced. It is proposed that the statement for reason for introducing charges under a TRO should be:

East Lothian Council operates public coastal car parks along the coast of East Lothian in accordance with the powers and duties contained in the Road Traffic Regulation Act 1984 as amended.

The purpose of the coastal car parks is to provide a safer parking location; assist traffic management by providing facilities off-site; manage visitors to coastal sites; protect the natural heritage of designated sites and to support and benefit the economy and tourism of East Lothian.

The management and operation of coastal car parks requires maintenance, the provision of visitor facilities, a safe low risk environment, as well as staff to manage, monitor and maintain use. It is, therefore, appropriate for those who use public coastal car parks to pay to do so and all reasonable steps will be taken to keep the cost as low as reasonably practicable.

A TRO is also required to implement the necessary parking restrictions needed to prevent potential displacement parking onto nearby roads and streets.

It would, therefore, be expedient to initiate the statutory procedure to introduce one TRO that would cover both the introduction of parking charges and parking restrictions. It should be noted that as objections can be made to the TRO and, if not withdrawn, a public hearing will be required.

- 3.3.6 Historically, parking charges were levied at a number of car parks including Gullane Bents until 2006, Yellowcraig until 2006, Longniddry Bents until the early 1990s, Linkfield and Shore Road pre-1980.

The historic arrangements for charging to use the Gullane Bents, Yellowcraig and Longniddry Bents car parks were under old Parking Place Regulations. Under the Gullane Bents Parking Place Regulations an exemption from paying charges was given to residents within that community.

However, arrangements of this nature, which treat nationals or some nationals of an EC State more favourably than other nationals of other EC Member States, have been declared illegal by the European Commission and there is clear case law in the European courts that a two tier system of charging for residents and non-residents is discriminatory.

It would not, however, be unlawful to introduce a season ticket or other periodic concession rates where residency was not a requirement.

These Parking Place Regulations, therefore, require to be revoked.

#### **3.4 Car Park Improvement Programme**

The condition of the road network and parking surface in all the car parks is poor and requires upgrading and improvement. This is highlighted by the photographs in Appendix 1.

The facilities provided in the car parks, such as toilets, showers and signage need to be of a standard that meets visitor and recreational user expectations. A start has been made on improving the facilities through funding from the Capital Plan. New toilets and showers have been constructed at Yellowcraig and Linkfield, John Muir Country Park. However, further improvement work is required at both these car parks and the other coastal car parks. This is highlighted by the photographs in Appendix 2.

Off-site improvements such as signage, waiting restrictions and physical barriers will be required to discourage off-site displacement parking.

It is proposed that initial improvements to the car park and infrastructure will be undertaken to enable charging to commence. Thereafter, improvements identified for each car park and the facilities within the car park, will be implemented through a rolling programme of improvements.

### 3.5 Coastal Car Parks to which charging is to be introduced

Each car park has been evaluated and graded in relation to the immediate road safety problems, traffic and visitor management issues, the impact on the environment, local residents, local businesses and the East Lothian economy and tourism that would arise as an outcome of there being no car park at these locations.

<b>Coastal Car Park</b>	<b>Grade</b>
Longniddry Bents No 1	1
Longniddry Bents No. 2	1
Longniddry Bents No. 3	1
Gullane Bents	1
Yellowcraig	1
John Muir Country Park – Linkfield	1
John Muir Country Park – Shore Road	1
John Muir Country Park - Tynninghame Links	1
Whitesands	1
Barnsness	1
Aberlady Bay Local Nature Reserve	2
Skateraw	2
Thorntonloch	2

The evaluation exercise indicates that three car parks would currently have a low impact if they were not available.

As there is nothing in the TRO legislation or guidance that requires charging to be introduced to all coastal car parks, provided that there is a

reasonable and rational reason for treating some car parks differently, it is proposed that Aberlady Bay Local Nature Reserve, Skateraw and Thorntonloch car parks be excluded from the TRO on the basis of the outcome of the evaluation.

Improvements to these car parks and associated facilities will, therefore, have to be carried out over a longer period.

These car parks will be closely monitored to assess the impact charging at the other car parks may have on them.

- 3.5.1 It is also proposed that the TRO be reviewed after 3 years along with the car parks that had been excluded from the TRO. If it is considered appropriate, a new TRO could then include any car park where there has been a significant increase in road safety problems, negative impact on car park condition, the natural environment and or the local economy and tourism.

### 3.6 **Parking Charging Hours**

It is proposed that the parking charges apply daily from 8.00am – 6.30pm, April – September and 8.00am – 4.00pm, October – March.

### 3.7 **Parking Charges**

The proposed parking charges are:

Daily - £2

Annual Season Ticket (covering all coastal car parks) - £40

Blue Badge Holders – Free (See Equalities Impact Assessment)

It should be noted, however, that the charges once set through the TRO are fixed and cannot be adjusted, other than for any changes in the VAT rate. Any changes to the charges would have to be through a review of the TRO, which is proposed in 3.5.1 above and set in a new TRO.

### 3.8 **Cash collection**

The preferred methods of cash collection are a combination of an automatic barrier and ticket machine system and pay and display machines.

An automatic barrier and ticket machine system would mean that payment of the charge was at the point of entry. This would lower the risk of loss of income on very busy days at those car parks that receive the largest number of visitors and the need to enforce non-payment of charges.

Pay & display machines would be sufficient at Tynninghame Links, White Sands and Barns Ness car parks

An electricity supply needs to be provided at all the car parks other than Yellowcraig, Shore Road and Tynninghame Links where there is an existing supply.

### 3.9 **Increased Annual Revenue Costs**

Currently coastal toilets are not open all year round. However, with an introduction of parking charges toilet facilities will need to be available throughout the year, with the associated increased annual revenue costs.

The toilets will also have to be maintained to a high standard through an annual planned maintenance programme, with an increase in the associated annual maintenance costs.

### 3.10 **Public Consultation**

3.10.1 A public consultation exercise on the proposal to introduce parking charges at coastal car parks was undertaken during the summer of 2008, the outcome of which was reported at the Council meeting on 28 October 2008.

117 of the 526 respondents indicated that they did not wish charges to be introduced. Other respondents remained silent on the introduction of charges, or indicated that if charges were to be introduced, East Lothian residents should be allowed to park for free (88 respondents) and that there should be concessions for pensioners (12).

107 respondents considered that if charges were introduced then their preferred method of payment was by season ticket, 98 preferred a daily charge and 5 preferred an hourly charge.

The report concluded that the public consultation on the introduction of car park charges was not conclusive and that what had emerged from the consultation was that from many users there was a desire to see improvements at various sites, particularly for water sports and where there are insufficient or unsatisfactory on site facilities and infrastructure, such as inadequate road surfacing and toilet welfare facilities.

### 3.10.2 **Public Petitions**

There are currently two online public petitions.

The first petition is an e-petition on East Lothian Council's website and

***calls on East Lothian Council not to introduce car parking charges at car parks at beaches within East Lothian.***

This petition has 80 signatories as at the date of this report.

In addition to the e-petition on the Council's website, there is also a web based petition entitled

### ***Against East Lothian Coastal Car Park Charges***

This petition is hosted on the GoPetition website and has 883 signatories to date. This site contains details of the signatories' residential town/city which can be analysed as follows:

East Lothian	451
Edinburgh	236
Midlothian	20
Scottish Borders	15
Other UK	151
Outwith UK	10
<b>TOTAL</b>	<b>883</b>

- 3.10.3 A letter has also been received from **Dunpender Community Council** expressing their opposition to the introduction of parking charges as they considered that charging at Tynninghame Links car park would have a direct impact on local people who use the beach for recreational purposes, costs associated with imposing a charge seem to be prohibitive, there could be displacement parking onto the busy A198 and there may be an adverse effect on visitors to the area.

## **4 POLICY IMPLICATIONS**

- 4.1 The Vision for the East Lothian Coastal Tourism Strategy is 'An integrated year round coastal tourism industry, based on an outstanding natural environment and a quality tourism product that meets and exceeds visitor expectations, whilst bringing economic, social and environmental benefits to East Lothian's coastal communities'. One of the aims of the Strategy is 'To improve the quality of visitor experience'.

Providing a quality visitor experience at the rural coast sites will also contribute to SO1 in the Economic Development Strategy - 'To be Scotland's leading coastal, leisure and food and drink destination'.

The maintenance and upkeep of coastal facilities is key to providing a quality environment and visitor experience. However, without investment in improving the existing facilities, and a sufficient revenue budget to maintain them, the quality of the sites will decline impacting on the economic value of the East Lothian coast as a tourism destination.

## **5 EQUALITIES IMPACT ASSESSMENT**

- 5.1 An Equality Impact Assessment has been carried out and negative impacts have been found.

The introduction of parking charges could have a negative impact on people with disabilities and older people who may have restricted income.

In order to try and lessen the impact it is proposed that Blue Badge holders be entitled to park at coastal car parks free of charge and that the annual Season Ticket can be paid in monthly instalments in order to spread the cost.

## **6 RESOURCE IMPLICATIONS**

- 6.1 Financial - It is anticipated that initial work required on the car parks to cover the cost of electrical supply, ticket machine/barrier installation and the provision of necessary internal and external road works etc will cost in the region of £700,000. This work will be carried out on a phased basis in support of the introduction of any car park charging scheme over the 2013/14 and 2014/15 financial years. If this report is approved a sum of this amount will require to be included in future capital programmes.

The financial results arising from the introduction of car park charging will be dependent upon a wide range of factors. A number of financial scenarios have been examined in relation to the possible introduction of car park charging. On the basis of the introduction of a £2 daily charge and £40 season ticket, an initial drop off in visitor numbers but with a prompt recovery thereafter, an increase in visitors of 10% over a 10 year period, an assumption that 30% of visits would be covered by season tickets and a 10% non payment rate, net income would be an average of £440,000 each year.

This income stream will be kept under review and will be used to fund a programme of improvement works.

- 6.2 Personnel - None

- 6.3 Other - None

## **7 BACKGROUND PAPERS**

- 7.1 Cabinet Report of 13 June 2006
- 7.2 Cabinet Report of 8 April 2008
- 7.3 East Lothian Council Report of 28 October 2008

- 7.4 Road Traffic Regulation Act 1984
- 7.5 Local Government (Scotland) Act 2003/Power of Wellbeing Guidance, Scottish Executive 2004
- 7.6 Against East Lothian Coastal Car Park Charges online petition
- 7.7 Council Public e- petition calling on east Lothian Council not to introduce charges at car parks at beaches within East Lothian
- 7.8 Dunpender Community Council letter of 5 October 2012
- 7.9 Working papers on financial modelling
- 7.10 Programme of implementation and improvement works

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**Appendix1**



**Access Road to John Muir Country Park Linkfield Car Park**



**Yellowcraig Car Park Surface**



**Gullane Bents Car Park Internal Road**



**Longniddry No 3 Parking Surface**

## Appendix 2



Longniddry No 2 Toilets



Longniddry No 3 Toilets