



Perpetual Licences for access and services across Ashdown Forest

In the early 1970s the Board of Conservators directed that every property needing an access across Ashdown Forest land should have a licence acknowledging the access and giving the licensee authority to make up and metal the track concerned and to have and maintain a *private* service (for example a private water pipe). This entailed a preparation fee for the licence and then a small annual charge payable to the Board. Licences were also required for sign boards and water pipes on the Forest and, where necessary, these three items were all put on the one licence.

The early licences were specific to the property owners and not transferable and new Licences were issued when properties changed hands. This situation pertained until late 2000, when it became apparent that the Council of Mortgage Lenders (CML) were increasingly uneasy with the fact that the access licences were not transferable. Unless their clients could be given a legal 'right of access' over the Forest, the CML could foresee potential problems with 'ransom strip' type situations which had happened elsewhere.

During 2001, after much discussion with solicitors and the Ashdown Forest Trust (the freehold owners of Ashdown Forest), it was eventually determined that 'a right of access' could not be granted over the common land of the Forest. Therefore, the Board's legal advisors drew up a new form of licence which permits vehicular access at all times and which will be tied to the property (not the owner) through the Land Registry Title Number. Following a court case in 2004, vehicular access across common land became a legal right, however this did not obviate the need for a Perpetual Licence for the right to *maintain* the access and any service pipe.

The Perpetual Licence is now being issued as a one-off when properties change hands and it will thereafter remain with the deeds of the property – hence 'perpetual'. Because the Perpetual Licence requires a significant amount of manual preparation and will only be issued once, the cost to the purchaser of the property has substantially increased; from 1 April 2023 the total cost will be £1008.79¹. This is made up of a consideration fee to the Board of £788.29 and a preparation fee of £220.50 (inc VAT). Holders of the Perpetual Licence will still be required to pay an annual charge to the Board of currently £126.79.

In order to prepare the Perpetual Licence, the full names of the incoming purchasers and a copy of the Land Registry Title and Plan are required. A draft licence is then issued to the purchaser's solicitor for consideration before engrossment. A separate licence can be issued to a property owner if the only requirement is for a private water-pipe or notice board. Other services such as telephone and electricity, for example, are covered separately by wayleaves from the utility companies.

It should be noted that both types of licences permit the property owners to make up, metal and maintain the access and where appropriate, maintain the water pipe and other service pipes. The Perpetual Licence is designed to cover all eventualities and where a service is not in existence at present, the route can be added to the plan at a later date, without the need to reissue a new licence. Conditions are laid down in the Licence.

Owners with existing access licences from the Board need take no action until their property is sold or changes hands, in which event the incoming purchaser will require a Perpetual Licence.

¹ To put the Board's Perpetual Licence and the associated charges in context, under the Countryside & Rights of Way (CROW) Act 2000 the Government has regularised the level of charges which owners of common land may levy against those who need an access over the common. This does not affect Ashdown Forest where the Board's system of licences is already in place. In other areas, depending on the age of the property concerned, owners could expect to pay between 0.25 - 0.50% of the value of their property for a licensed access across common land.