

EAST HERTS COUNCIL

ENVIRONMENT SCRUTINY COMMITTEE – 15 SEPTEMBER 2009

JOINT REPORT BY THE EXECUTIVE MEMBERS FOR COMMUNITY SAFETY AND PROTECTION, PLANNING POLICY AND TRANSPORT AND ENVIRONMENT AND CONSERVATION

6. REVIEW OF FEES AND CHARGES IN THE PLANNING AND BUILDING CONTROL SERVICE AREA

WARD(S) AFFECTED: ALL

'D' RECOMMENDATION – the Executive be advised that:

(A) where charges are levied on the basis of an hourly rate of officer time, these are standardised at £75 per hour;

(B) fees are introduced for the reproduction of documents in colour at twice the rate of the black and white reproduction fee;

(C) the fee of £15 per disc for copies of documents provided electronically is endorsed;

(D) for copies of documents, where the fee to be levied is below £3, no fee is charged if payment is to be made by cheque; and

(E) no other change be made to the charges levied by the service area and no new charges be introduced.

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1.0 Purpose/Summary of Report

1.1 At its meeting of 9 September 2008, the Executive agreed to a fees and charges strategy. That strategy required that all fees and charges should be review in accordance with it. This report constitutes that review for charges in the Planning and Building Control service area.

2.0 Contribution to the Council's Corporate Priorities/Objectives

2.1 **Fit for purpose, services fit for you**

*Deliver customer focused services by maintaining and developing a*

*well managed and publicly accountable organisation.*

### 3.0 Background

3.1 The fees and charges strategy requires that all fees are reviewed on the basis of the following criteria:

- any subsidy from the Council taxpayer to the service user should be a deliberate choice;
- fees should generate income to help deliver service improvement in priority areas;
- fees should support the medium term financial strategy;
- there should be consistency in fee setting for similar areas;
- unnecessary subsidy from the Council tax payer to commercial organisations should be avoided;
- if the impact of the review is high, then changes can be phased.

3.2 In addition, Heads of Service were asked to identify any services where charges could be made, where they currently are not.

3.3 The current fee charging regimes in the service area are as follows. Where identified below these are not discretionary. These fee areas are not considered further in the report as the Council does not have the ability to make changes to them. Current fees are set out on the spreadsheet attached as appendix A to this report on pages 6.10 - 6.13.

Planning application fees – **not discretionary**

Confirmation of compliance with a planning condition – **not discretionary**

Confirmation of compliance with a legal agreement

Pre-application advice fees

Building Control fees

High Hedges – investigation of a complaint

Miscellaneous development control and building control fees (copies of decision notices, plans, reports and research etc)

Where charges and the level of them are discretionary, they are considered individually below:

### 4.0 Development Control (DC) – Confirmation of compliance with a legal agreement.

4.1 The current fee for this activity is £72 for the first hour of research and £50 for each subsequent hour, or part of. The charge is levied

only where the parties that are subject to the agreement are seeking confirmation – it is not levied to third parties. (Requests from such parties are considered as requests to investigate potential breaches of planning control – and hence are an enforcement related activity). The fee is not levied where clauses in the agreement require the authority to provide confirmation without charge, that is, the Council is legally obliged to do so.

- 4.2 There are very few occasions where this service is requested. It is based on an hourly rate of employees time. The current arrangement, were such a request received would be for the customer to be advised of the charge regime and, on their consent, a planning officer to be assigned to investigate and respond.
- 4.3 The current level of the charge reflects costs where the work is undertaken by junior planning officers. A more sophisticated fee structure could be devised to reflect the grade of officers undertaking the task. However, given the very few occasions on which the fee is levied, this is not considered an appropriate use of resources. In addition, a current planning and building control service plan action is to implement a more proactive approach to legal agreement monitoring. This would potentially enable the introduction of a separate standard charge into planning agreements intended to meet the costs of their subsequent monitoring. Prior to the introduction of this more proactive service it is considered that it would be inappropriate to introduce a charge, but when the service plan action has been completed a charge is suggested. This would be introduced in the 10/11 financial year, and would reflect the resources deployed in monitoring legal agreements.
- 4.4 Currently it is proposed only to align hourly charges throughout the service where they are made. It is suggested then that this charge is amended to £75 for any hourly period or part of.

#### 5.0 Pre-application advice fees

- 5.1 These fees were introduced at the beginning of the 2007/08 financial year. For the current year they are set as follows:

Major development proposals: £500 initial fee, plus £75 per hour thereafter.

Minor development proposals: £250 initial fee, plus £75 per hour thereafter.

The initial fee provides the service that is set out in the Councils guidance note. This generally entails a meeting with potential developers, research, consideration of proposals and the provision of feedback. The additional hourly rate is applied if potential developers require additional information and feedback from the Council.

5.2 Against an original estimate of £30,000 income, an outturn of just over £45,000 was achieved in the 08/09 year. Fees of this nature have now been introduced by a number of authorities, although they are by no means universal. In addition, there is no standardised basis on which they are charged.

5.3 Current review of development control processes by the government indicates that scrutiny is to be given to this area in the near future. It is potentially the case that a standardised approach could be introduced, along with a standard tariff along the lines of the planning application fees. Consideration of the time and staff resources expended on this service indicates that our fee is a reasonable one. It is suggested that more detailed assessment is not undertaken in advance of consideration of the matter by the government.

## 6.0 Building Control fees

6.1 Unlike many of the services the Council provides in this area, the building control (BC) service does not operate in a monopoly position. Potential applicants can choose to receive their building control from a private sector Approved Inspector (AI). Whilst AI's can decline to take on work submitted to them, the Council is under an obligation to undertake work which is submitted to it.

6.2 Whilst the fees charged are discretionary, there is a considerable amount of regulation governing the level at which fees are set. Currently, the Council is required to fix a scheme of fees on the basis of different types of work. The Councils fees are established on the basis of work relating to new dwellings; domestic extensions; and all other work. The regulations also require that fees are set in a way that the costs of the service, on aggregate, are met over a three year rolling period.

6.3 There are certain areas of work that fall outside of that requirement. For example dealing with dangerous structures, pre-application advice to customers and enforcement action all fall outside of the work that the regulations require to be covered by the established

fees. Lastly, government regulations then allow a consideration to be made with regard to the type of the work that the Council undertakes. Where more than 65% of that work relates to domestic extension work, then only 90% of costs are required to be covered.

- 6.4 The above establishes the current picture. However, the government has recently consulted on a changed regime of BC charging. There were a number of themes to this, but the general approach is that building control should remain as a self funding service, but greater flexibility should be given to enable fees to be set on the basis of individual schemes rather than on a grouped basis.
- 6.5 In acknowledgement of the unusual nature of the BC service, the constitution delegates the determination of BC fees to the Head of Planning and Building Control.
- 6.6 Officers are considering the implications of the consultation that is currently underway with regard to BC fees. It is recommended that, whilst due regard is paid to the Councils fees and charges strategy, the regulatory requirements relating to BC charges must prevail. No changes to the current fee arrangements are proposed therefore at this stage. It is anticipated however that these will need to be considered in more detail once the outcome of the current consultation work is known.
- 7.0 High Hedges
- 7.1 This fee was introduced following the introduction of legislation in 2005. The requirement is for the Council to investigate a complaint in relation to a high hedge once all reasonable steps have been undertaken by the complainant and owner of the site on which the hedge is located to resolve the matter. Dealing with such a complaint takes considerable investigation and officer time and is almost inevitably to be followed by an appeal process. There have been a very limited number of these requests.
- 7.2 There is provision for the Council to offer reduced fees, for example to those on low incomes or benefits. Your officers do not recommend this. As indicated, there is a considerable amount of work involved in these investigations. In addition, given the very limited number of these requests, the work involved in establishing criteria for those who would be entitled to reduced rates and then testing submissions against them is not considered to be an

appropriate use of resources. It is recommended that the fee is retained at its current level of £500 for all requests.

## 8.0 Miscellaneous DC and BC fees

- 8.1 These fees mainly relate to the charge made for copies of information held on the Councils files which is required to be made available to the public. These include decision notices, reports, plans etc.
- 8.2 Prior to December 2006, planning application decision notices were available only from the Councils offices. Subsequently however, those notices are now publicly available on the Councils website (and can be freely downloaded).
- 8.3 In addition, a recent case decision by the Information Office Commissioner (the Markinson Ruling) has established that the Council must only make a charge directly related to the cost of copying the information. So whereas, prior to this, charges often reflected an element of time associated with preparation, storage and retrieval of documents, this must not now be the case.
- 8.4 Within his ruling the Information Commissioner suggested that, for A4 documents, a reasonable charge would be 10p. For the current year, these misc DC and BC fees have been amended to reflect this ruling. The fees vary, but are minimal. Given the ruling, no change to these fees is proposed here except that, where colour copies are provided, rates are introduced that are twice the black and white rate. This would reflect the costs of provision (toner and copying equipment) and is also in response to the more widespread use now of colour documents and the ability to reproduce them easily.
- 8.5 The only other amendment suggested is in reflection of the electronic copying of documents. Requests are often made to copy these to a transferable disc given the capacity of IT equipment both of the Council and the customer. These are currently charged at £15 per disc and Members are requested to endorse this fee. Members are also requested to endorse the practice that has been adopted whereby, if payment is being made by cheque for copies of documents, if the charge is below a threshold of £3, the documents are provided free. This is because the costs associated with the processing of a cheque outweigh its value below £3.
- 8.6 There are some service areas where professional input is required to provide the information required by the customer – rather than

simply copies of documents being produced. These are generally subject to hourly rates to reflect the grade of the posts involved in the work. As above, it is recommended that all are amended to the standard rate of £75 for any hour or part of.

#### 9.0 Service areas with no charge

9.1 There are a number of areas within the service where no charges are currently made. These are:

- Development control pre-application advice for household schemes;

9.2 It remains good practice for planning authorities to provide a level of guidance and advice to applicants – particularly to those who are generally unlikely to be professionally advised or where the schemes have the potential to impact on heritage assets. In these cases it is considered that charging for advice would likely result in the service not being used (rather than income being generated) and would potentially result in additional burdens on the service to deal with applications which are submitted with no pre-consideration. No new charge is recommended.

- Development Control – general advice to third parties (planning and conservation);

9.3 This is advice to those who generally have not chosen to be customers. They approach the authority for advice and guidance when development proposals are put forward by others. The planning responsibility placed on the Councils is to consider and protect the public interest – and not the interests of individual parties. The two are often aligned however. The introduction of a fee here would be unlikely to generate considerable income and is likely to be particularly unpalatable to customers. A charge is not recommended.

- Conservation service advice;

9.4 This relates to those who are potential applicants in relation to some aspect of the heritage environment – either a listed building or impacting on a conservation area. As above it remains good practice for Councils to advise potential applicants. However, the Councils resources in this area are limited and a review of the service has identified the need to concentrate on the Councils proactive outcomes – rather than those that are driven by individual

customers. It has been agreed then that resources to this service area are limited and that customers are encouraged to seek their own independent advice. Demand could be regulated by way of a fee, but it is recommended at this time that service management is used instead.

- Building Control – pre-application and general advice;

9.5 As indicated above, BC operates in a competitive environment. The main aspect on which the Council competes with AI's is with regard to the quality of service. Part of this quality includes the ability of potential applicants to discuss the aspects of their development schemes. This service is not heavily used and it is suggested that a fee would not generate any significant income and would not assist the Council in securing work which is of considerable value to it. No fee is suggested.

- Planning enforcement – either requests for investigation or those in potential breach of control;

9.6 Again this is an area where customers do not choose to become so. They contact the Council for the provision of the service when others have undertaken potentially unauthorised development. Introducing a fee for doing so would be very difficult to justify. No fee is recommended.

- Planning policy – any areas of service.

9.7 In most cases where the planning policy team comes into contact with customers it is for the purpose of consultation on evolving policy documents. Where the team undertakes non-statutory policy work it is based on a priority approach identified by officers and portfolio holder. It is considered that the introduction of any fee into this area of service would be counter productive – in that it would reduce consultation, or would work against the planning objectives of the Council. No fees are suggested.

## 10.0 Consultation

10.1 Executive Members.

## 11.0 Legal Implications

11.1 None



12.0 Financial Implications

12.1 As set out in the report

13.0 Human Resource Implications

13.1 None

14.0 Risk Management Implications

14.1 the recommendations with regard to fees, or new fees have been formulated on the basis that they do not introduce risks of challenge to service provision, or reduce demand for service that could place additional separate burdens on the Council.

Background Papers

Existing fee rates.

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