

ADDITIONAL FEE INCOME CHARGES
REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY
DIRECTION)



Hinckley & Bosworth
Borough Council

A Borough to be proud of

WARDS AFFECTED: ALL WARDS

1. **PURPOSE OF REPORT**

- 1.1 To advise Members on the new charging regime for services currently provided by the Development Control Team for free as approved by Members at Executive Committee on 18 July 2012.

2. **RECOMMENDATION**

- 2.1 That the report be noted

3. **BACKGROUND TO THE REPORT**

- 3.1 Members will be aware that service areas have been challenged to find savings or additional income in order to strengthen the Council's financial position.

- 3.2 As part of this process the Development Services team has looked carefully at the service provided to Customers to assess whether there are opportunities to charge a fee for services currently delivered free.

- 3.3 In considering which services could be charged for the service area looked at whether the service added value to the process and whether the service could be obtained by the customer by doing the research themselves. The purpose of this was to ensure there was customer choice.

- 3.4 The following services were considered fee chargeable:

3.4.1 **Administering Viability Statements**

Due to the economic climate the number of planning applications submitted for new development with information relating to issues of financial viability has increased. It is recognised by Central Government that financial viability is a factor for consideration within the planning process. As such it is necessary for the authority to have the viability assessments that are submitted tested. As this is a specialist piece of work, there is a contract in place with Coventry City Council (CCC) who assess each viability case for £1000 + VAT. This cost is met by the developer; however, as the process needs to be robust and independent from the developer it is necessary for the service to administer the process and liaise with CCC and the developer to ensure the development costs are rigorously tested. As such it is proposed to charge £100 per viability assessment to the developer for undertaking this process. It has been calculated that there are approximately 10 of these assessments a year and as such estimate the income from this charge to be £1000.

3.4.2 **Monitoring Play and Open Space Legal Agreements**

Planning applications for new residential development requires a contribution towards either on site or off site play and open space facilities within the Borough. There is currently a policy in place that allows the Authority to charge 2% of the total contribution required towards play and open space towards administration costs. This has not been charged to date. As such it is proposed to implement this policy and

commence the charging at a rate of 2%. Based on an assessment of contributions received over the last 2-3 years it has been calculated that the income from this charge would be approximately £2000.

3.4.4 Monitoring Financial Contributions on behalf of Third Parties

The Authority is responsible for collecting and monitoring financial contributions towards other infrastructure such as the health service, local policing, and town centre infrastructure improvements. As these contributions are held by the Local Authority who monitors expenditure it is considered appropriate to introduce a monitoring cost of either 1% or £150 (whichever the greater) per legal agreement. Based on an assessment of contributions received over the last 2-3 years it has been calculated that the income from this charge would be approximately £2,500.

3.4.5 Planning History Checks; Permitted Development Checks and Discharge of Condition Checks

The current fees and charges include a fee of £46.68 for researching the planning history of a site or premises. Based on a benchmarking exercise that has been carried out within Development Control it has been ascertained that on average the hourly rate of an officer is £28.40. It has also been calculated that on average a thorough planning history check of a site or premises takes 2 hours, as such it is proposed to increase this fee to £56.80.

In addition, a service is currently provided to check if permitted development rights have been removed from a property, and to check if the conditions imposed on a development have been fully discharged (this is not to be confused with the discharge of conditions by an applicant as the fee for this is set out in the National Planning Fee Regulations). These 2 additional services also on average take 2 hours; as such it is proposed to charge for these services at the same rate as History Checks: £56.80.

It has been difficult to calculate how many of these enquiries are received in a year as records have not previously been kept, however, recording of such enquiries does now take place and it is considered that over the course of a year the fees are likely to generate approximately £500 income.

3.4.6 Pre-application Charging

The Office of the Deputy Prime Minister (ODPM) produced guidance on the introduction of charges under Section 93 of the Local Government Act in a publication 'General Power for Best Value Authorities to Charge for Discretionary Service – Guidance on the Power in the Local Government Act 2003'

In addition the provisions for charging under Section 303 of the Town and Country Planning Act 1990 were widened in their scope by Section 53 of the Planning and Compulsory Purchase Act. This section of the Act allows fees to be charged in relation to any function of a local planning authority and for matters ancillary to those functions.

Officers have undertaken considerable research into pre-application charging and have previously reported a need to introduce a pre-application charging regime. Members endorsed the introduction of a fixed charge structure however, market forces, the economic climate and resources within the team resulted in us postponing the introduction of the charging regime. The majority of councils in Leicestershire and nationally have now introduced a formal pre-application advice service for which a charge is payable. This approach is supported nationally and will ensure that the Council can begin to recover its costs for this discretionary, albeit important function.

Developers, in the past, have indicated how useful our service is in that it provides greater certainty and clarity to them by identifying planning issues and requirements before the application is submitted. The service will need to ensure that high quality and constructive advice is provided, and that it continues to deal with planning applications in a timely manner. It is likely that the introduction of the charge will curb speculative pre-application enquiries and filter out poorly thought-out proposals, thereby releasing the capacity to deal with legitimate pre-application enquiries. The introduction of a charge to recover the costs for providing pre-application advice will help to establish a more sustainable financial footing for the Development Control function.

Whilst the scheme does not propose charging for advice on householders and Small/Medium Sized Enterprises this service has currently been withdrawn due to staff resources and on the basis that there is sufficient information contained on the Councils website to assist with such proposals. This has been in operation for some time and is largely accepted by developers and applicants. It is proposed to review the situation in 12 months and reconsider this approach if deemed necessary.

The pre-application advice service requires significant resources and results in higher workloads for more experienced staff therefore it has been decided to formalise how the service operates and to introduce a charge. The draft formal procedure is set out in the appendix.

3.4.7 What the charge will be:

The scheme will apply to the following types of development:

Major Developments, which for the purposes of the fees are:

- Provision of 10 or more residential units;
- Provision of over 1,000m² of commercial floor space;
- Developments involving a site over 0.5ha in area;
- Developments requiring an Environmental Impact Statement.

The fee for this will be £1700.00.

Additional meetings outside of the scope will be charged at £160.00 per 1 hour meeting

Advice on viability issues requiring the input of a viability consultant will be charged an additional fee of £1,000 + VAT and the administrative fee detailed above at 3.4.2.

4. FINANCIAL IMPLICATIONS [PE]

- 4.1 Contained within the body of the report. In future years these can be included as part of the Council's Scale of Fees & Charges document which is approved annually by Executive.

5. LEGAL IMPLICATIONS (AB)

- 5.1 There are various authorities for a local authority to charge for services either through specific legislation or by way of S93 of the Local Government Act 2003 which allows for charges to be made for discretionary services. The legal implications of each of the proposed charges are as follows:
- 5.2 Administering Viability Statements – This is a discretionary function and as such a charge is allowable under the Local Government Act 2003. The charge should only be on a cost recovery basis and the applicant should be made aware of the charge.

- 5.3 Monitoring Contributions under S106 – S106 of the Town and Country Planning Act 1990 allows for planning obligations to be paid through agreement or undertaking. It has been found to be lawful and CIL compliant for such obligations to include provision for monitoring costs particularly when the payment of monitoring costs is supported by a Supplementary Planning Document
- 5.4 Planning History Checks - This is a discretionary function and as such a charge is allowable under the Local Government Act 2003. The charge should only be on a cost recovery basis and the applicant should be made aware of the charge
- 5.5 Pre Application Charging - This is a discretionary function and as such a charge is allowable under the Local Government Act 2003. The charge should only be on a cost recovery basis and the applicant should be made aware of the charge

6. CORPORATE PLAN IMPLICATIONS

6.1 This is considered to relate to all the aims of the Corporate Plan.

7. CONSULTATION

7.1 None

8. RISK IMPLICATIONS

8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

8.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Imposition of a new target for responses and limited staffing resources available to commit to responding	Income to be re-invested into planning services to improve processes	Tracy Miller
Customers do not receive a standard of service that justifies the proposed charge	A protocol setting out the details of the pre-application service together with service standards will be published on the web site	Tracy Miller
Customers who receive positive pre-application advice may complain in the event that a subsequent planning application is not granted	The advice will be provided in writing and will contain a caveat to ensure that the advice is given without prejudice to the final decision of the local planning authority and making it clear that any advice does not predetermine the final decision. The protocol will clarify the basis of any advice	Tracy Miller

<p>Imposing additional financial pressures on developers/customers in the economic downturn</p>	<p>Evidence demonstrates that developers/applicants benefit from pre-application advice, particularly on larger complex development proposals. Procedures will be in place to ensure that the advice given is timely, constructive and reliable. Sufficient information is obtainable on the Council's website to assist applicants/developers in the submission of householder and smaller application types.</p>	<p>Tracy Miller</p>
<p>The proposed charge may not reflect the actual cost of providing pre - application advice (in later years)</p>	<p>The charges have been set following rigorous analysis of the costs of providing planning services and benchmarking with other local planning authorities. The pre-application activity and costs will be monitored and reviewed after a period of one year and updated as necessary.</p>	<p>Tracy Miller</p>

9. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

9.1 The introduction of additional charges for services currently provided for free could impact adversely on developers and customers. However, if the local authority do not set a charge for such services it is unlikely in the future to be able to provide them at all. The charge will apply equally to major developments in rural and urban locations.

10. **CORPORATE IMPLICATIONS**

10.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

Appendix One: Draft Protocol for Pre-Application Charging

Background papers: None

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