

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

15 December 2010

### Report of the Director of Planning Transport and Leisure

#### Part 1- Public

#### Executive Non Key Decisions

### 1 SETTING PLANNING APPLICATION FEES LOCALLY

#### Summary

The Government has consulted on a new regime of fee-setting for planning applications. This report considers the main features of the proposals and the broad implications. A generally supportive response is recommended although there will be detailed work required to establish an appropriate fees scale for the Borough.

#### 1.1 Background

1.1.1 Over the years since the initial introduction of planning application fees, various Governments have reviewed the level of fees and have also instituted occasional nationwide reviews of the proportion of development control costs actually recovered by fee income. Until now fees have been nationally prescribed and have fallen considerably short of covering actual costs of the service which itself has grown in complexity in recent years.

1.1.2 The Coalition Government has now concluded that:

- the decentralising of fee setting should take place with Local Planning Authorities being able to set a local fee regime;
- charging should take place for some types of application that are currently free of a fee and;
- a move to locally set fee scales should better reflect the cost of the service provided. This is an approach based on the principle that the community should not subsidise the planning process, one outcome of which is the increase of value to land and property often to the private rather than public benefit in general terms.

#### 1.2 The key proposals

- The Government's prime proposal is that Local Planning Authorities will be free to set their own fee levels, for introduction in the period between April

and October 2011. It believes that this will also improve transparency as to the costs of providing the development control part of the planning service and over time will enable the costs of the service to be recouped.

- At present applicants are entitled, in limited circumstances, to a “free go” for resubmission following a refusal or withdrawal. It is suggested that discretion as to whether to allow for “free goes” should now rest with the Local Planning Authority.
- It is also suggested that it should be made possible for Planning Authorities to levy higher fees for “retrospective” applications. The Government envisages that this would allow the recovery of some of the investigatory costs that arise in cases that lead to retrospective applications.

### 1.3 Commentary

- 1.3.1 Generally, the concept of local fee setting is to be welcomed. It will allow a better reflection of the true cost of processing planning applications. In particular it would also demonstrate more clearly the cost of providing the culture of service that the Borough Council wishes to provide. Development Control, particularly in the way it is delivered by this Council, is characterised by a high degree of consultation and negotiation which by and large delivers good quality decision making, responsive to local views, and ultimately good quality developments.
- 1.3.2 One of the options not put forward by the Government is the extension of fees to Listed Building or Conservation Area applications or those for works to protected trees. The logic is that the applicant does not ultimately control whether their property is subject to these extra controls and therefore the need for an application is not “voluntary”. I agree with this approach.
- 1.3.3 I also support the principle of allowing the Council to adopt an enhanced fee to be charged in respect of retrospective applications. This would assist in defraying some of the cost of investigating breaches of planning control and reflects the representations that the Borough Council and others have made to the Government about the effectiveness of the planning enforcement system.
- 1.3.4 We do, of course, have some experience of the work involved in local fee setting through the Building Control system. It is clear that the Government proposes that the new planning fee regime should be similarly “*non-profit-making*”. In order to set an appropriate scale of planning application fees quite a lot of work will be needed to calculate attributable costs of the service. To this end I am working in conjunction with the Director of Finance and her team. The outcome of that work will form the focus of the more detailed assessment of the possible range of fees and will be reported to Planning and Transportation Advisory Board prior to implementation and in light of the Regulations finally published by Government.

## 1.4 Legal Implications

1.4.1 None directly related to this report.

## 1.5 Financial and Value for Money Considerations

1.5.1 These are outlined in the report and clearly the move towards covering the costs of part of the planning service would be of benefit in these times when the Council's overall budgetary position is under significant pressure.

## 1.6 Risk Assessment

1.6.1 There is a risk that the fees set could either undershoot costs recovery or fail to meet the test of being "*non-profit-making*". This will be an important factor to consider in making the detailed assessment of costs and charges referred to at 1.3.4 above.

## 1.7 Equality Impact Assessment

1.7.1 See 'Screening for equality impacts' table at the end of the report.

## 1.8 Recommendations

1.8.1 The points raised in paragraphs 1.3.1 to 1.3.3 **BE ADOPTED** as the Council's response to the consultation.

Background papers:

Nil

contact: Lindsay Pearson  
Steve Humphrey

Steve Humphrey  
Director of Planning Transport and Leisure

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	Yes	In the sense that an enhanced fee for a retrospective application will fall specifically on those in the community that have breached planning control.

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	The proposed charging regime seeks to recognise the main beneficiaries of the service and charge accordingly
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		The retrospective application fee only applies where a breach of control has occurred.

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*