

TONBRIDGE & MALLING BOROUGH COUNCIL
HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

14 December 2023

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 REVIEW OF FEES AND CHARGES FOR PRE-APPLICATION ADVICE SERVICE, BUILDING CONTROL FEES AND FOR HIGH HEDGES AND S106 MONITORING FEES

1.1 Charging

1.1.1 The current pre-application advice and charging regime for Development Management was introduced on 1st April 2016 and was updated annually following ongoing periods of monitoring and review. A comprehensive review of the service was undertaken and reported to the Planning and Transportation Advisory Board in November 2021 – <https://democracy.tmbc.gov.uk/ieListDocuments.aspx?CId=159&MId+4655> and changes were recommended and made at that time to the pre-application advice service. These changes remain in place with increases to the fees on a yearly basis.

Development Management Charges

1.1.2 No changes are proposed to the pre-application categories as part of this report as it is considered the charging categories work well. However, when the fees were last reviewed in 2023/24, the fees for Strategic developments were not reviewed and were the same as for Major Developments. A review has now been undertaken of the cost for providing this service and this has been increased to £3500. Meetings for this type of development due to their strategic nature also take longer which justifies the higher cost. A full list of reviewed and updated fees is included as **Annex 1**.

1.1.3 Fees for providing householder, listed buildings, small (minor), medium and larger developments have been raised only by the baseline rate of inflation as there has been no increase in the time taken to provide this advice, and therefore the costs should only rise in line with inflation. Fees for major developments have however been increased by 10% due to the added complexity and officers time which is required for a larger pre-application review. Applicants also benefit from an enhanced service with the introduction of Planning Policy comments to assess the implications on key infrastructure provision.

Building Control

- 1.1.4 A review has been undertaken for Building Control Fees which has also included a benchmarking exercise against other Building Control fees across Kent.
- 1.1.5 The review has included an assessment of the work undertaken, the number of hours required to carry out the work and the hourly charge to undertake the work. **Annex 2** sets out the current and proposed charges. This sets out the standard charges across Tables A – C and includes above and at inflationary increases.
- 1.1.6 Table A has been increased by 10% due to the additional work that is required on new dwellings in light of Building Regulation changes. Table B has only been increased in line with inflation as the fees currently cover the hours spent on these applications. As charges can only be levied on a cost recovery basis and having benchmarked against other Kent based Building Control teams, it is not recommended that Table B fees be increased further than the inflationary increase. Table C has also been increased by 10%, except for when we employ a contractor to undertake site inspections where the fee has been recommended at just the inflationary increase. This is considered to be justified on the same grounds as cited above due to the additional work that is required under the Building Regulation changes.
- 1.1.7 Whilst Building Control fees can only be levied on a cost recovery basis, it is recommended that the hourly rate, currently charged at £55.93 be increased by 10% to **£61.52** to cover the additional work that is required in light the Building Regulation changes.
- 1.1.8 Minor changes have also been made Annex 2 document which is displayed on the Building Control pages of the website in order to provide better clarity.

1.2 Additional discretionary Fees - High Hedges and S106 Monitoring Fees

- 1.2.1 A review has also been undertaken of other discretionary fees namely High Hedge compliant fees and S106 Monitoring Fees. These have been assessed on the average time taken to progress these cases/monitor the obligation with the hourly rate of the officer who would be responsible for carrying this out.

High Hedge Complaints

- 1.2.2 A benchmarking exercise was carried out for the 2023/24 review of fees for High Hedge complaints against other Kent authorities and the average time taken to process these by the relevant officer. This established the current fees of £484.
- 1.2.3 A further review has been undertaken against other Kent authorities with three raising their fees, eight keeping their fees unchanged and one lowering their fees. TMBC is currently the mean average for Kent for High Hedge fees and there has

been no increase in staff time processing such applications. The fees are currently considered to cover the actual officer time processing the complaint. On this basis, fees should only be increased in line with inflation.

- 1.2.4 It is recommended that High Hedges Fees be increased to **£510**

S106 Monitoring

- 1.2.5 A review and benchmarking exercise has also been undertaken to assess the contributions charged for S106 monitoring. This varies significantly across Kent and only gives a snap-shop of the charges but not the size of the teams involved in S106/CIL monitoring. Some authorities due to being CIL charging authorities also have expensive back-office monitoring systems and additional staff due to the complexities of the CIL regime. Therefore, the benchmarking exercise does not assist in evaluating the cost for providing the service.
- 1.2.6 We currently charge £330 per obligation for the monitoring fee and employ a Senior Obligations Officer who solely manages the S106 monitoring and most (80%) of her time is devoted to S106 monitoring. Her salary is partly funded but not all through the monitoring fees and this does not cover all the salary costs.
- 1.2.7 In order to recover the costs for S106 monitoring and to provide sufficient funding to cover the salary costs for this monitoring, a 20% increase in fees is proposed from the current chargeable rate of £330 to £400.
- 1.2.8 It is further recommended that the increased rate be reflected in the Planning Obligations Protocol S106 (paragraph 9.5) to reflect the proposed increase in monitoring fees.
- 1.2.9 It is recommended that S106 Monitoring Fees be increased to **£400 for each obligation contained in the agreement.**

1.3 Review Planning Performance Agreements and Charging Schedule

- 1.3.1 This has been reviewed separately and is on the same committee agenda as this report to enable members to have a complete overview of the discretionary charges proposed for 2024/25.

1.4 Future Charging Opportunities

- 1.4.1 A review has also been undertaken to assess whether any additional services could be offered to customers on a chargeable basis.
- 1.4.2 A key area for potential charging relates to work undertaken relating to requests for history searches on applications (from solicitors and search companies). Research into charging for history searches was undertaken with a review of all Kent Local Planning Authorities as well as several in Southeast London, East Sussex and Wessex.

1.4.3 The conclusions reached were as follows:

- Councils do not typically charge fees to make old planning documents available.
- It appears that the vast majority of other LPA's have either a digitised planning register or have clearly outlined cut off dates for digitised vs. non digitised.
- Some LPA's hold a specific online form for requesting the old planning information and ask for parameters of the request such as a date range or types of permission for example.

1.4.4 Having also considered the digitalisation project to scan all our historic records and the likely costs incurred in recovering our costs, it not considered that a charge should be made for historic searches.

1.4.5 We will continue to review other opportunities for charging for services over the next 12 months with a view to establishing whether any additional services could be integrated in the future.

1.5 Legal Implications

1.5.1 The Local Government Act 2003 provides the power for local authorities to charge for discretionary services (as defined in the Local Government Act 1999). Discretionary services are those services that an authority has the power but not a duty to provide. An authority may charge where the person who receives the service has agreed to its provision. The power to charge under this provision does not apply where the power to provide the service in question already benefits from a charging power or is subject to an express prohibition from charging.

1.5.2 The Local Government Act 2003 places a duty on authorities to ensure that, taken one year with another, the income from charges for each kind of discretionary service does not exceed the costs of provision. An authority may set charges as it thinks fit, and may, in particular, charge only certain people for a service or charge different people different amounts.

1.5.3 Local authorities are required to have regard for any guidance that may be issued by the Secretary of State in terms of carrying out their functions under the 2003 Act. Section 93(7) of the Act provides that certain prohibitions in other legislation preventing authorities from raising money are specifically dis-applied in relation to the exercise of the charging power.

1.5.4 Local Planning Authorities therefore have powers to recover the costs of pre-application advice in recognition of the time officers have to spend researching information in order to provide answers to prospective developers or applicants.

1.6 Financial And Value for Money Considerations

1.6.1 It is appropriate to review the charging schedule every year, to ensure we continue to effectively recover costs. This will ensure that we are responsive to the

needs of the customer and that the charging schedule is fairly applied and reflects the costs of delivering the service.

1.6.2 Based on the current level of uptake, the proposed increases to the fees discussed within this report will generate additional income of £33,950 in 2024/25 onwards, compared to the revised estimate. Which can be split out as follows:

- Development Management - £5,000
- Building Control - £21,000
- S106 Monitoring - £7,950

1.6.3 However, it should also be noted that the 2023/24 revised estimate for Building Control fees has been reduced by £84,000 due to the reduction in the demand for the service.

1.7 Risk Assessment

1.7.1 Robust monitoring should be carried out on a yearly basis to ensure that our protocols are up to date and reflect best practice and that the charging schedule reflects the costs of delivering the service and is based on up-to-date evidence.

1.8 Equality Impact Assessment

1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.9 Recommendations

1.9.1 It is **RECOMMENDED TO CABINET** to **APPROVE** the following with effect from 1st April 2024

- Adopt the updated Pre-application Charging and Building Control Fee Schedules 2024/25 as attached at Annex 1 and 2.
- Adopt the updated charging fees for S106 monitoring and High Hedge as set out in sections 1.2.4 and 1.2.9 above including an update to the Planning Obligations Protocol S106 (paragraph 9.5).

Background papers:

Annex 1 – Proposed Development Management Fee Charging Schedule

Annex 2 – Proposed Building Control Fee Charging Schedule

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