

# Housing and Planning Scrutiny Select Committee

03 December 2024

## Part 1 - Public

### Matters for Cabinet - Key Decision



Cabinet Member/s	Cllr Mike Taylor, Cabinet Member for Planning Cllr Martin Coffin – Cabinet Member for Transformation and Infrastructure
Responsible Officer	Eleanor Hoyle, Director of Planning, Housing & Environmental Health
Report Author	James Bailey, Head of Planning

### Review of Fees and Charges for Discretionary Planning Services

#### 1 Summary and Purpose of Report

- 1.1 This report updates the discretionary fees across the planning service for 2025/26 which would become effective on the 1<sup>st</sup> April 2025. Fees have generally been increased between 3.5% – 5%, with fees for Strategic development being increased by 10%, with consideration being given to each category of fee. Further explanation of these increases can be found in the body of the report.
- 1.2 New fees categories have been introduced either as a result of reviewing best practise or arising from requests from customers.

#### 2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 Ensuring that discretionary fees are reviewed regularly and are benchmarked against other Kent authorities ensures TMBC's fees are set to cover costs and provide an efficient service for our customers.

#### 3 Recommendations

- 3.1 It is **RECOMMENDED TO CABINET** to **APPROVE** the following with effect from 1<sup>st</sup> April 2025.
  - Adopt the updated Pre-application Charging Fee Schedule 2025/26 as attached at Annex 1.

- Adopt the updated Building Control Fee Schedule for 2025/26 attached at Annex 2.
- Adopt the updated charging fees for S106 monitoring and compliance as set out in paragraphs 5.17/5.20 below.
- Adopt the updated High Hedge fee as set out in paragraph 5.12 below.
- Adopt the updated PPA charging schedule as attached at Annex 4
- Adopt and replace the PPA template attached to this report as Annex 3 which is included as Annex 1 to the Planning Performance Agreement Protocol.

## **4 Introduction and Background**

4.1 In bringing forward the charging proposals for 2025/26 consideration has been given to a range of factors, including the Council's overall financial position, market position, trading patterns, the current rate of inflation and customer feedback.

4.2 The proposed charges for 2025/26 have also taken into account a set of guiding principles for the setting of fees and charges reproduced below for the benefit of this Committee:

- Fees and charges should reflect the Council's strategic priorities and other corporate aims recognising there may be trade-offs as these are not mutually exclusive;
- Fees and charges should have due regard to the Council's Medium Term Financial Strategy;
- If there is to be a subsidy from the Council tax payer to the service user this should be a conscious choice;
- The Council should look to maximise income subject to market conditions, opportunities and comparable charges elsewhere, in the context of its strategic priorities and other corporate aims.
- Fees and charges should normally be reviewed at least annually (unless fixed by statute or some other body);

4.3 Fees and charges should not be used to provide a subsidy from the Council taxpayer to commercial operators;

- There should be consistency between charges for similar services;

- Concessions for services should follow a logical pattern so as not to preclude, where appropriate, access to Council services on the grounds of ability to pay.
- 4.4 It is essential in light of the Council's overall financial position that opportunities are taken to maximise income, as it is becoming increasingly difficult to achieve further expenditure savings to meet the targets in the Savings and Transformation Strategy. Attention has been given to the fees and charges applied by neighbouring Council's, and averages across the County, and these comparisons are included in relevant sections of the report for Member consideration.
- 4.5 The current pre-application advice and charging regime for Development Management was introduced on 1st April 2016 and has been 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.
- 4.6 Building Control Fees, High Hedges and S106 Monitoring Fees have also been increased yearly to ensure that the cost of delivering these services is fully met.
- 4.7 It is proposed to introduce some new fees in Development Management, S106 monitoring & compliance and Building Control and these are set out below.

## 5 Proposal

### *Development Management Charges*

- 5.1 No changes are proposed to the pre-application categories as part of this report as operationally these are working well and meeting the needs of customers. However, it is proposed to introduce some new fee scales for requests for compliance with planning conditions and involvement of senior officers in pre-application discussions. A full list of reviewed and updated fees is included as Annex 1.
- 5.2 Fees for providing householder, listed buildings, small (minor), medium and larger developments and Majors have been raised by 5% as there has been only a limited increase in the time spent to provide this advice. Fees for Strategic developments have however been increased by 10% due to the added complexity and officer time that is required for a strategic 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.
- 5.3 The service sometimes receives requests from customers seeking confirmation that conditions attached to planning permissions have been complied with. This is

outside the formal statutory process where applicants seek approval of planning conditions. Currently there is no charge for requests seeking confirmation of compliance with conditions and it is proposed to introduce a new fee for requests for compliance with planning conditions.

- 5.4 In recognition of the fees for householder development and given that householder proposals usually take less time to research, it is proposed to have a reduced fee for householder requests with a larger fee for non-household developments. Consideration has been given to a separate fee for large scale developments, however this has been discounted at this time in lieu of consistency across application types. A review will however be undertaken next year to gauge the effectiveness of the new fees. The new fees are included in the table attached as Annex 1.

### *Building Control*

- 5.5 A review has been undertaken for Building Control Fees, which has also included a benchmarking exercise against other Building Control fees across Kent.
- 5.6 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. The outcome of the review demonstrates that our current fee levels are set appropriately and therefore Annex 2 sets out the standard charges across Tables A – C and includes increases of 3.5% only.
- 5.7 Tables A, B and C have only been increased by 3.5% as the fees currently cover the hours spent on these applications. As charges can only be levied on a cost recovery basis and having been benchmarked against other Kent based Building Control teams, it is not recommended that fees be increased further than the suggested increase.
- 5.8 Whilst Building Control fees can only be levied on a cost recovery basis, it is recommended that the hourly rate, currently charged at £61.52 be increased by 3.5% to **£63.67** to cover the additional work that is required in light of the Building Regulation changes.
- 5.9 Some new fee charges are proposed to cover providing copies of notices, requests to make amendments to an application and an hourly charge to cover applications where a request is made to visit a site two or more years since the last inspection. These additional charges are set out in Table D of Annex 2. Minor correction changes to the fee charging table are highlighted in yellow.
- 5.10 In agreeing the updated Building Control fees members are advised that the original estimate for Building Control was £421,000 for 24/25. In light of current market conditions where trading remains difficult and demand for the service is reduced, the revised estimate for 25/26 is £341,550, a reduction of £79,000. This

has yet to be agreed by Full Council but is included in this report for members information.

*Additional discretionary Fees - High Hedges and S106 Monitoring.*

- 5.11 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 £510.
- 5.12 A further review has been undertaken against other Kent authorities with four raising their fees and eight keeping their fees unchanged. TMBC's current fee is slightly higher than the mean average for Kent and the current median (which is Canterbury at £500). It is proposed to raise the current fee by just over 5%, which would still be just above the median council (Canterbury) and would still represent good value for money for the complainant who wishes to utilise this service. The fees are currently considered to cover the actual officer time for processing the complaint, although it should be recognised that cases vary significantly in terms of officer time and therefore the slightly larger increase in fee allows for these variations.
- 5.13 It is recommended that High Hedges Fees be increased to **£540**

*S106 Monitoring*

- 5.14 A review and benchmarking exercise has been undertaken to assess the contributions charged for S106 monitoring. This varies significantly across Kent and only gives a snapshot of the charges but not the size of the teams involved in S106/CIL monitoring. Due to some local authorities being CIL charging, they also have expensive back-office monitoring systems and additional staff to manage the complexities of the CIL regime. Therefore, the benchmarking exercise does not fully assist in evaluating the cost for providing the service but does provide some useful information on fee levels.
- 5.15 The Council currently charges £400 per obligation for the monitoring fee and employs a Senior Obligations Officer who primarily manages the S106 monitoring and most (80%) of the role's time is devoted to S106 monitoring. The salary is partly funded but not all through the monitoring fees and this does not cover all the salary costs.
- 5.16 In order to recover the costs for S106 monitoring and to provide sufficient funding to cover the salary costs for this monitoring, a 15% increase in fees is proposed from the current chargeable rate of £400 to £460.
- 5.17 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.

- 5.18 It is recommended that S106 Monitoring Fees be increased to **£460** for each obligation contained in the agreement.
- 5.19 We currently receive requests to confirm compliance with the obligations in the S106 have been met. This involves research work by the Senior Obligations Officer outside of current normal duties. There is currently no charge for this research and confirmation. Checking compliance with S106 obligations may involve visiting the site so any proposed charges should reflect this as an additional charging category.
- 5.20 It is proposed to charge a flat rate fee of £175 for all requests relating to compliance with S106 clauses and if a site visit is required to check for compliance, then an additional fee of £145 is proposed. The decision on whether a site visit is required will be made by the Senior Obligations Officer following a review of the submitted information and request and would be reviewed by the Planning Policy Manager or Head of Planning should this be queried by the customer.
- 5.21 It is recommended that a new fee for S106 compliance requests of **£175** with an additional fee of **£145** should a site visit be required be introduced with effect from the 1<sup>st</sup> April 2025.

*Planning Performance Agreement and Charging Schedule*

- 5.22 A comprehensive review of the Planning Performance Agreement (PPA) Protocol was undertaken in 2023/24 with an updated Protocol and increased fee schedule. Fees were increased by various percentages for small (65%), medium (61%), large (49%) and strategic (32%) applications to reflect the time spent of negotiating and delivering on the PPA timescale on a cost recovery basis.
- 5.23 It is not proposed to review the Protocol for the 25/26 financial year as this remains up to date and concurrent with guidance on PPAs. It has become apparent however that the template PPA document, which was attached as Annex 1 to the report to H&PSSC on 14 December 2023, needs updating to address minor formatting errors. The updated template is included as **Annex 3** to this report.
- 5.24 Whilst the charging categories work well for PPAs, there is currently an omission in the PPA fee schedule to cover Hybrid applications. To address this, it is proposed to add a charge for Hybrid applications in addition to the development type fee to each category as set out in **Annex 4**.
- 5.25 In addition to introducing a new hybrid fee for PPAs it is proposed to introduce a new PPA category for condition discharge/approval. This is to be based on the number of conditions seeking to be approved and is shown in Annex 4.

- 5.26 Increases to all Development type fees are proposed at 5% to account for the officer time in providing the project plan and liaising with applicants to keep the PPA on target.

## **6 Other Options**

- 6.1 A review has also been undertaken to assess whether any additional services could be offered to customers on a chargeable basis.
- 6.2 A review carried out last year for the 24/25 fees concluded that it was not considered that a charge should be made for historic searches, however this report seeks to introduce new charges to cover areas where officers feel that value can be added to the process or where requests have been made from agents/members of the public for additional services to be offered.
- 6.3 For Development Management these additional charges cover fees for requests for compliance with planning conditions and fees for senior officer involvement in Major development proposals. For PPA's, these additional charges relate to discharge of conditions. For Building Control, new fee charges are proposed to cover costs for providing copies of notices, requests to make amendments to an application and an hourly charge to cover applications where a request is made to visit a site two or more years since the last inspection. For S106 monitoring, new fees have been included for compliance with S106 obligations.

## **7 Financial and Value for Money Considerations**

- 7.1 It is appropriate to review the charging schedule every year, to ensure the Council continues to effectively recover costs. This will ensure that the Council is responsive to the needs of the customer and that the charging schedule is fairly applied and reflects the costs of delivering the service.
- 7.2 Based on the current level of uptake, the proposed increases to the fees discussed within this report will generate additional income of £44,588 in 2025/26 onwards, compared to the 24/25 budget. Which can be split out as follows:
- Development Management - £19,500
  - PPA's - £9,738
  - Building Control - £11,550
  - S106 Monitoring - £3,750

## **8 Risk Assessment**

- 8.1 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.

## **9 Legal Implications**

- 9.1 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.
- 9.2 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 charge only certain people for a service or charge different people different amounts.
- 9.3 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.
- 9.4 Local Planning Authorities therefore have powers to recover the costs of preapplication advice in recognition of the time officers have to spend researching information in order to provide answers to prospective developers or applicants.

## **10 Consultation and Communications**

- 10.1 The fee tables will be published on-line on the Council's website at least four weeks prior to start of the new financial year when the new fees will become live. Old fee tables will be removed at the start of the new financial year.

## **11 Implementation**

- 11.1 New fees will be applied from 1<sup>st</sup> April 2025.

## **12 Cross Cutting Issues**

### **12.1 Climate Change and Biodiversity**

12.1.1 Limited or low impact on emissions and environment.

12.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

12.1.3 There are no impacts on Climate change arising from this report.



## 12.2 Equalities and Diversity

12.2.1 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.

## 12.3 Other If Relevant

- None

Background Papers	None
Annexes	Annex 1 – Development Management Fees Annex 2 – Building Control Fees Annex 3 – Planning Performance updated template Annex 4 – Planning Performance Fees