

Dudley Metropolitan Borough Council

Development Control Committee - 15th March 2010

Report of the Director of the Urban Environment

Building Control Fees - 2010/2011

Purpose of Report

1. To seek agreement to amend the Council's Building Regulation Fee Scale for 2010/2011.
2. To seek agreement to a scale of charges for the non-statutory supply of services provided by Development Control.

Background

3. Building Control exists to ensure the health and safety of users of buildings, to promote energy efficiency and to ensure reasonable access for all.
4. Under the provisions of the Building Act, 1984, it is the duty of local authorities to enforce the regulations through determining applications and site inspections.
5. Since 1985 legislation has been in place to enable the service to be provided by the private sector in competition with local authorities. Local authority fee scales, therefore, need to be competitive with those of the private sector.
6. The Building (Local Authority Charges) Regulations 1998, requires that fees be charged for relevant Building Control work and that the resulting income makes that part of the service self financing, measured over a three year rolling programme, without generating an excess surplus.
7. In setting the fee scales, consideration needs to be given to the financial constraints the legislation requires and additionally the requirement for the scales to be competitive against the ever-growing competition from the private sector.
8. The proposed fee levels for 2010/11 are outlined in Appendix A. The fees have been amended to satisfy the Authority policy of a minimum increase equivalent to inflation of 1% for schedule 1 (rounded up) with greater increases (maximum of 5%) applied to schedules 2 and 4 where it has been determined that these will not deter from the competitive nature of the fee scale. To enable comparison of the scales the current fee scale is additionally attached as Appendix B.

Development Control – Non Statutory Fee Scale

9. Development Control carry out a small number of non statutory functions including providing written permitted development advice and supply of scale plans to members of the public whilst non essential it is generally considered that they add value to the planning service by enhancing the statutory function provided.
10. When setting fees for the non statutory services the increase is reflective of the supporting administration and technical costs.
11. During 2005 a case was presented to the Information Commission regarding excessive charging for copies of planning information known as the Markinson ruling. The outcome determined that Local Authorities may not exceed the cost of providing the information (costs include paper, photocopy charge and postage) and it should not include the cost of staff time. The ruling suggested Public Authorities should generally adopt a 10p per sheet for the cost of photocopying. This ruling does not affect the right to exceed this charge for information supplied on a commercial basis.

Planning Obligation

12. The use of planning obligations to secure financial developer contributions towards the delivery of local infrastructure is a key and well-established element of the planning system, and are required on certain planning applications depending on the scale and nature of development. Formulaes for calculating required contributions are based on an evidence base setting out the need for local infrastructure within Dudley to support new development, and are contained within the Council's adopted Planning Obligations Supplementary Planning Document. The evidence base for planning obligations calculated the financial contributions required at the time of that evidence base, therefore there is a need to index link these financial calculations annually to ensure that the developer contributions remain at a sufficient level to fund the required infrastructure. If planning obligations were not indexed linked then insufficient contributions would be secured thus resulting in a loss of benefit to the Borough as a whole.
13. The use of inflationary indices for planning obligations is an established principle and is supported by the DCLG publication entitled 'Planning Obligations: Practice Guidance' (2006); in line with this advice the Council has uplifted the planning obligation contributions annually from the 1st April for the last four years. The indicator that has been used is the Consumer Price Index (CPI) as it is a well established general indicator covering a wide range of services, and can be used to index wages, salaries, pensions and regulated or contracted prices. As planning obligations fund a broad range of both the construction and maintenance elements of local infrastructure ranging from highway works to nature conservation and library improvements, it is considered more appropriate to use CPI rather than a more obscure, construction based Indicator which may be wholly inappropriate for the funding of some aspects of local infrastructure. The current rate of CPI is 3.5% and it is proposed that this figure is used for planning obligations for the 2010/11 financial year.

Finance

14. The proposal is considered to accord to the provisions of the Building (Local Authority Charges) Regulations 1998, and has been designed to maximise income to the Council and meet increased budget income targets.
15. The Department of Communities and Local Government (DCLG) consulted in 2009 on a proposed new fee regime for Building Control ("Proposed Changes to the Local Authority Building Control Charging Regime: Consultation Paper (April 2009) "). The intention remains that these changes come into force on 1st April 2010, however the DCLG consultation responses should have been published and the new regulations made/laid in October 2009. Unfortunately it has not been possible to comply with the timetable but DCLG intends to publish the charges package in early 2010. . It may be necessary therefore in 2010/11 to bring a further report to this committee for consideration.
16. The Development Control fees included within this report are non-statutory and the increase is to cover administrative and technical costs of providing the service.
17. As a result of the Markinson ruling the removal of fees to members of the public for general printing/photocopying is recommended, with the exception of Freedom of Information requests.
18. All monies received are receipted and banked inline with Council policy, as a result of the Markinson ruling it has become uneconomical to collect, receipt and bank fees for small amounts received from Members of the public.

Law

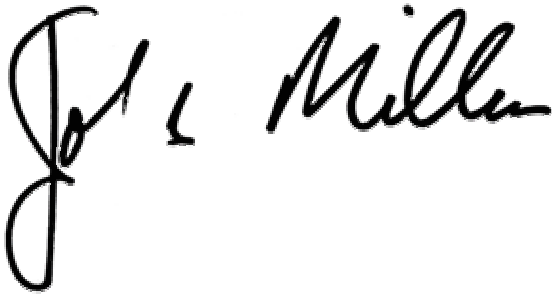
19. Charges are made under the Building (Local Authority Charges) Regulations 1998, the controlling legislation being the Building Act 1984. Development Control charges are non statutory.
20. These regulations will be subject to change following the introduction of the new fee regime

Equality Impact

- 21 This report complies fully with the Council's Policy on equal opportunities.

Recommendation

22. That Committee endorse the increases in Building Regulation Fee Charges as outlined in Appendix A and B.
23. That Committee endorse the increases in Development Control Fee Charges as outlined in Appendix C.
24. The Committee endorse the recommendation with regard to Planning Obligation payments as noted in paragraph 12 and 13.

A handwritten signature in black ink, appearing to read 'J.B. Millar'. The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

J.B. MILLAR - DIRECTOR OF THE URBAN ENVIRONMENT

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List of Background Papers

1. Building Act 1984
2. The Building (Local Authority Charges) Regulations 1998
3. Proposed Changes to the Local Authority Building Control Charging Regime: Consultation Paper (April 2009).