

Development Control Committee – 24th April 2012

Report of the Director of the Urban Environment

Planning Services Fees – 2012/13

Purpose of Report

1. To consider the proposal to amend the Council's Building Regulation Fee Scale from 1st June 2012 in accordance with The Building (Local Authority Charges) Regulations 2010.
2. To consider the proposal for no increase to non statutory Planning Service Fees.
3. Note the continued use of the Consumer Price Index for planning obligations in accordance with Council Policy.

Background

4. Building Control exists to ensure the health and safety of users of buildings, to promote energy efficiency and to ensure reasonable access for all.
5. 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.
6. 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.
7. The Building (Local Authority Charges) Regulations 2010 came into force on 1 April 2010 and contained a transitional period (between 1 April 2010 and 1 October 2010) during which time the Local Authority were required to introduce a new charging scheme. The current scheme came into force on 1 October 2010.
8. The key principle of the Regulations remains the need to fix charges, by way of a scheme, to fully recover the costs associated with the relevant Building Control functions. However, the new Regulations place a greater emphasis on the need to relate these charges to the costs of carrying out the building control function on a building project and highlight the principle of 'User Pays'. The regime is more flexible and these flexibilities are intended to make the scheme fairer and proportionate to the actual costs incurred.

9. Under the 2010 Regulations, Local Authorities are required to set their charges by relating the “hourly rate” of their Building Control staff to the time spent carrying out the chargeable functions associated with a building project. The hourly rate is a single rate based on the average cost of providing the chargeable elements of the building control service and has been developed in line with guidance produced by CIPFA and the LABC (Local Authority Building Control) model scheme. This allows for standard charges to be applied for various categories of works or for bespoke quotations to be provided to clients. It is expected that the bespoke quotations will be for the larger, more complex projects.
10. The existing fee levels are shown in **Appendix A** with the proposed fee levels from 1st June 2012 outlined in **Appendix B**.

Planning Services – Non Statutory Fee Scale

11. Planning Services 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.
12. When setting fees for the non statutory services, the fee level set is reflective of the supporting administration and technical costs. See **Appendix C** for non statutory Planning Services fees.
13. 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.
14. Due to the increasing ability for customers to obtain information themselves via our web pages this service is diminishing and the costs to provide it have not markedly increased, therefore no change to the current charges is proposed this year. However, the usage will be monitored and the matter reconsidered again next year.

Planning Obligations

15. 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, as set out within the Council's adopted Planning Obligations Supplementary Planning Document (SPD), approved September 2011.

16. 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. (The use of inflationary indices is supported by the Department of Community and Local Government (DCLG) 2006 publication entitled 'Planning Obligations: Practice Guidance').
17. The index used is Consumer Price Index (CPI), and the current rate is 3.6%¹. The 2012/13 financial year costings are set out in the amended SPD Appendix 1, which is included as Appendix D to this report.

Finance

18. The proposal is considered to accord to the provisions of the Building (Local Authority Charges) Regulations 2010, and has been designed to maximise income to the Council and meet increased budget income targets, without, as required, generating excess surplus.
19. The underlying requirement of the new Regulations is that the fees charged are appropriate for the works undertaken in exercising chargeable Building Control functions. It is always difficult to accurately predict the building control income as this is subject to building activity and the overall economic situation. The current economic climate makes this prediction even more uncertain. However, the new regulations should ensure that "taking one financial year with another, the income derived by the Authority from performing chargeable functions and providing chargeable advice as nearly as possible equates to the costs incurred by the authority in performing chargeable functions and providing chargeable advice"
20. The Regulations require that an annual review of the charges is undertaken to ensure that this overriding objective is met.
21. The Planning Services fees included within this report are non-statutory. The costs of delivering this service are covered by the charges proposed.
22. 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.
23. All monies received are receipted and banked in line 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

24. Charges are made under the Building (Local Authority Charges) Regulations 2010, the controlling legislation being the Building Act 1984.

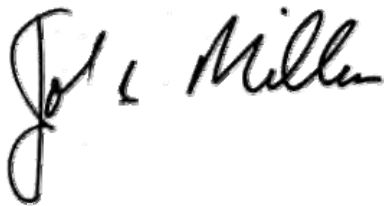
¹ The rate was 3.5% in 2101/11 and 4.4% in 2011/12.

Equality Impact

25. This report complies fully with the Council's Policy on equal opportunities.
26. The Building (Local Authority Charges) Regulation 2010 specifically exempt from the requirement to charge a fee in connection with work solely for the purpose of securing greater health, safety, welfare or convenience of people with disabilities where the works are in connection with their permanent residence or to an existing building to which members of the public are admitted.

Recommendation

27. It is recommended that Committee approve the new scheme of Building Regulation Fee Charges as outlined in Appendix B.
28. That Committee approve no increases in Planning Service Fee Charges as outlined in Appendix C.
29. That Committee note the use of Consumer Price Index in Planning Obligations costings as outlined in Appendix D, and in accordance with the adopted SPD "Planning Obligations".



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List of Background Papers

The Building (Local Authority Charges) Regulations 2010
<http://www.legislation.gov.uk/uksi/2010/404/contents/made>

Dudley MBC Building Control Charges Scheme 2010
<http://www.dudley.gov.uk/environment-planning/planning/building-control/making-an-application/>

CIPFA Local Authority Building Control Accounting Guidance