
Meeting of the Planning Committee – 14th December, 2023

Report of the Director of Regeneration and Enterprise

Planning Services Fees 2024

Purpose

1. To consider the proposals within the report with regard to the setting of the Council's Planning Fees to take effect from 1st January 2024, non-statutory Development Management Charges; updated Community Infrastructure Levy (CIL) Charging Schedule (effective from 1st January 2024-31st December 2024); fees for the Local Development Order (LDO); and charges for Pre-Application advice to customers.

Recommendations

2. It is recommended that Planning Committee: -
 - Note the continued use of Consumer Price Index in Planning Obligations costings and approve the proposed S106/Unilateral administrative and monitoring fee.
 - Note the updated CIL indexations costs will be applicable from 1st January 2024 until 31st December 2024. (Appendix A)
 - To approve proposed fees for the Local Development Order (LDO) as outlined in Appendix B.
 - To approve amended fees for Pre-Application charges Appendix C.
 - To approve the fee schedule for Development Management Non-Statutory Charges as outlined in Appendix D.

All fees to come into effect from 1st January 2024.

Background

3. In line with council policy all non-statutory fees and charges are updated annually.

4. Planning Obligations

4.1 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 is required on certain planning applications depending on the scale and nature of development.

4.2 In line with the Planning Obligations Supplementary Planning Document (SPD) adopted in 2016, the use of inflationary indices (CPI) for Planning Obligations is an established principle and the Council uplifts contributions annually from the 1st April. A further report setting out the updated planning obligations fees will be reported to Planning Committee in April for information.

4.3 Notwithstanding the above, paragraphs 36 and 37 of the Planning Obligations SPD highlight the need for admin and/or legal fees for S106 or Unilateral agreements. Due to the technical nature of these documents and the need to involve a Council Solicitor, legal fees will always be required and the applicant will be invoiced directly for those costs. Further, the completion of a planning obligation involves the council in various administrative/monitoring work, which has a cost which should be recovered through the request for Section 106 monitoring fees. Regulation 122 (2A) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) permits this. Therefore, building upon the provision of the Planning Obligation SPD monitoring fees should be sought on all S106 and Unilateral agreements going forward on the following basis;

Monetary value of S106	Administrative/monitoring fee
Less than £10,000	£500
£10,000-£20,000	£1,000
More than £20,000	2.5% up to a maximum of £10,000

4.4 The applicant will be advised of the costs directly or it will form part of any resolution to Planning Committee but it is also included in the table in Appendix D for reference.

5. Community Infrastructure Levy (CIL)

- 5.1 Community Infrastructure Levy (CIL) CIL is a levy, adopted in 2015/16, that allows Local Authorities to charge on new developments. The money can be used to support development by funding infrastructure that the Council, local community, and neighbourhoods want. There is a need to index link CIL contributions to keep the levy responsive to market conditions; as a failure to do so would result, over time, in insufficient contributions being secured.
- 5.2 The requirement to apply an index of inflation is set out within regulation 40 of the CIL Regulations 2010 (as amended). This regulation requires CIL contributions to be index linked using the national All-In Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors. On this basis the CIL costs for Dudley have been increased based on the most recent All-In Tender Price Index of construction costs published by the Royal Institute of Chartered Surveyors on 23 October 2023 (See Appendix A). The updated CIL indexation costs will be applicable from 1st January 2024- 31st December 2024.

6. Local Development Order (LDOs)

- 6.1 The Council adopted a Local Development Order (LDO) for Household Extensions in 2017. If homeowners choose to take advantage of the LDO there is a process for gaining a letter of determination with a fee originally set at half the fee of a household application. There is also a fee to make a minor amendment to the development following the issue of the letter of determination to cover the administration costs of the process.
- 6.2 The fee was increased last year by 2% in accordance with all discretionary charges to reflect inflationary pressures. However, the Government are increasing national planning fees by 25% for non-major development, including householder applications, from 6th December 2023. Therefore, to maintain the link between cost-of-service provision and charge it is recommended that the LDO fee is increased by a similar percentage. The existing and proposed fees for the LDO are therefore outlined in Appendix B.

7. Pre-Application

- 7.1 The pre-application process is where advice is provided on informal development proposals, which are submitted to the planning service. It offers significant potential to improve both the efficiency and effectiveness of the planning application system and improve the quality of planning applications and their likelihood of success. Councils can charge for this service and whilst it is not a statutory function this is now frequent practice in councils.
- 7.2 Dudley has charged for pre-app for several years and in past years there have been moderate increases to reflect inflationary pressures and the cost of providing the service. As such it is proposed to increase the fees this year by approximately 5% to reflect recent significant inflationary pressures. Given the recent increases to national planning fees of 25% and 35% respectively I do not consider 5% to be unreasonable (new national fees took effect 6th December 2023). Further, whilst a wider review of the pre-app service is to be undertaken there is an opportunity to introduce some immediate changes to ensure the fees reflect the cost of the service more comprehensively and to ensure the service is transparent and consistent regardless of applicant and/or the type of proposal.
- 7.3 Previously householders have benefitted from a free first enquiry, with only repeat applications charged. However, such queries make up a sizeable proportion of the query's received and take a considerable amount of officer time. As such, to accurately reflect impact on resources it is proposed that all householder pre-application queries are charged for. This is widespread practice for most other LPAs.
- 7.4 Applications submitted by or in partnership with Dudley MBC, developments in relation to charities (for the purpose of the charity function), disabled occupiers (no repeat householder fee) and where the scheme has been subject to grant funding have previously been exempt from the charges. However, this is inconsistent with the national fee charges for formal submissions and the many benefits of the pre-app is currently being absorbed by the service rather than the applicant. Charges for the pre-application service are well established and with the exemption of disabled occupiers (for a householder extension) fees should be charged accordingly.
- 7.5 In addition, there is currently no provision for fees to be charged for non-residential/commercial developments. Again, this is inconsistent with national fee charges for formal applications and new charging categories are therefore proposed.

- 7.6 There is also no provision for Planning Performance Agreements (PPAs) which is actively encouraged by the government and particularly relevant for large complex proposals which need a specifically targeted resource.

Accordingly, the new fee schedule is outlined in Appendix C.

8. Trees

- 8.1 The submission of formal applications for works to protected trees is free as determined nationally. This will remain unchanged, but we charge for pre-application advice which is provided by the Tree Officer should it be sought. The fee charges were previously split between less than 10 trees and between 11+ trees. However, to more accurately reflect time and costs associated with providing this service, which includes a site visit, it is now proposed to further split these categories as follows:

- 1-4 trees
- 5-9 trees
- 9-14 trees
- 15+

As such the new charges are outlined in Appendix C.

The authority will also continue to charge for copies of Tree Preservation Orders this fee has increased by 5% (as outlined in Appendix D).

9. Historic Environment

- 9.1 As with trees the submission of applications for Listed Building consent or Conservation Area consent is free as determined nationally. However, we will continue to charge for pre-application advice which is provided by the Historic Environment Officer should it be sought. Again, in line with other pre-app changes it is proposed to increase the fees in by approximately 5% to reflect general inflation increases.

10. Discharging or Modifying S106 Agreements

- 10.1 Planning obligations sometimes need to be modified and/or requests to confirm the obligation has been met (it can be discharged) are received. Typically, proposals to vary S106 agreements will form part

of a S73 application to make material amendments to an existing planning permission. In such cases the council will not require a separate fee to cover planning officer costs to handle the variation of the original S106 agreement. However, occasionally an applicant may consider it necessary to seek to vary a S106 agreement outside of a S73 application and/ or request to discharge is received which results in planning administration charges. Therefore, in order to cover council costs, a flat rate fee of £200 was introduced from 1st January 2023 for handling these requests (appendix D).

- 10.2 The fees are reflective of the planning officer costs associated with responding to the request but are not inclusive of the council's legal costs, which will still be separately calculated by our solicitors as currently happens.
- 10.3 They also do not include any third-party specialist advice that the council may reasonably need to procure to independently assess proposed variations (such as viability advice). Where third party specialist advice is required, it will continue to be the expectation that the applicant will meet the costs incurred by the council.
- 10.4 As this charge was only introduced at the beginning of this year insufficient numbers of applications have been processed to fully, and accurately, break down the costs of processing these applications to warrant increased fee(s)/greater number of categories as such no fee increase is currently proposed.

11. Development Management Non-Statutory Fees

- 11.1 Development Management carry out several non-statutory functions including providing copies of decision notices and supply of Tree Preservation Orders, to members of the public. Whilst non-essential it is generally considered that they add value to the service by enhancing the statutory function provided.
- 11.2 When setting fees for the non-statutory services the increase is reflective of the supporting administration and technical costs and in line with inflationary increases. See Appendix D for non-statutory Development Management fees.

Finance

12. The Development Management fees included within this report are non-statutory and any charge is to cover administrative and technical costs of providing the service only.

All monies received are receipted and banked in line with Council policy.

Law

13. The CIL Regulations 2010 (as amended) set out the requirements for the indexation of CIL charges.

The CIL Regulations 2010 (as amended) permit local planning authorities to charge legal fees for preparation of s106 agreements.

Local planning authorities may charge for providing discretionary services including the cost of pre application work under section 93 of the Local Government Act 2003

Regulation 122 (2A) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) permits a local planning authority to collect administrative and monitoring charges.

Risk Management

14. There are no material risks to the Council resulting from the report.

Equality Impact

15. An initial fee exemption is proposed for those seeking pre-application advice for house extensions when related to their disability consistent with the national fee exemptions. There are no other implications arising from this report.

Environmental/Climate Change

16. There are no environmental or climate change issues.

Human Resources/Organisational Development

17. There are no direct Human Resources or Organisational Development Implications.

Commercial/Procurement

18. All fees and charges are appropriate to the works undertaken.

Council Priorities

19. Having appropriate Planning and Building Control Fee's in place for both residential and commercial development supports the council's priority of *regenerating the borough* as well as helping to create a cleaner and greener place.



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List of Background Papers

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended):
<http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>

APPENDIX A

Current Costings and Planning Obligations*

Type of Obligation	Current Costings applicable to planning applications submitted after 1 st January 2022
Affordable Housing	25% on-site obligation on all sites proposing 15 dwellings or more
Education	Calculated on a site-by-site basis: £11,616 per nursery/primary school place, £17,503.65 per secondary school place and £18,983 per post 16
Highway Infrastructure Works	Calculated on a site-by-site basis – usually non-financial
Air Quality Improvements	£35.92 per additional traffic-based trip
Nature Conservation	Calculated on a site-by-site basis – usually non-financial
Open Space, Sport and Recreation	On sites 80 dwellings or more where onsite provision cannot be accommodated: £1,147.71 per flat and £2,064.24 per house
Environmental Safety and Health	Calculated on a site-by-site basis
Historic Environment	Calculated on a site-by-site basis

* Current Costings Table to be updated annually on 1st January 2024 in line with CPI, subject to Council approval.

APPENDIX B

Local Development Order (LDO) Fees 2024

LDO Request	2023	2024	Increase
Application and Letter of Determination	105.00	129.00	Increased to half the cost of the expected new planning application fee
Minor Amendment to Approved LDO Application	49.00	64.5	Increased to half the application fee

APPENDIX C

Pre-Applications Fees 2024

Type	2023	2024	Comments
Householder	£0	£60*	Less than half application cost
Change of use	£118	Minor £124 Major £250	
Advertisements –			
Signage	£33.50	£35	
Hoardings	£118	£124	
Listed Building/Conservation Area	£61	£64	
Trees –			This fee includes a site visit by the planning services Arboriculturist and verbal or written advice
1-4	(Less than 10)	£110	
5-9	£102	£220	
9-14	(11+)	£330	
15+	£204	£440	
Telecoms	£85.50	£90	
New Residential Development –			This includes change of use to residential as well as new builds and includes all types of new residential units including flats.
In principle only advice	£102	£107	
1-3 units	£102	£107	
4-9 units	£204	£214	
10-49 units	£510	£535	
50-99 units	£970	£1019	
100-299 units	£1530	£1606	
300+ units	£3060	£3213	
New commercial development			
Minor (<1000 sqm)	No charge	£250	
Major (1001-2499 sqm)		£500	
(2500-4999 sqm)		£750	
(5000 sqm+)		£1000	
PPA	Not offered	Dependent on type and nature of development	
Meeting with the case officer –			These meetings will be at the discretion of the case office on an as required/necessary basis. They are not compulsory.
Virtual	£51 per hour	£54	
In person (Council offices)	£102 per hour	£107	
On site	£204 per hour	£214	

** First enquiry for disabled homeowners seeking to extend their home for the purposes of their disability would be exempt.*

APPENDIX D

Non-Statutory Fees and Charges Review–Development Management from 1st January 2024

Fee Description	Increase	2023 (Prices Inclusive of VAT)	2024 (Prices Inclusive of VAT)
Photocopy/printing of Planning or Building Control application documentation (Falling within Councils retention period of 15 years) Copies of documentation falling within the retention period are available free of charge from the council's website. We cannot guarantee availability of documents falling outside of the retention period.	5%	£21.70 per document	£22.80 per document
Photocopy/printing of Planning or Building Control application documentation (Falling within or outside of Councils retention period of 15 years)	5%	£35.40 per document	£37.20 per document
Copy of Tree Preservation Order	5%	£35.40 per order	£37.20 per order
Formal response to confirm Discharge of Conditions on an application site (applications within 10 years of decision date). Householder Other Developments	5%	£41.40 per application £140.60 per application	£43.50 per application £147.60 per application
High Hedge Complaint	5%	£536.80	£564
Copy of a Planning Enforcement Notice	5%	£35.40 per notice	£37.20 per notice
HER Searches (charges for the first-hour research)	5%	£102 per search	£107 per search
Varying/discharging S106	No increase	£200	£200