

THURSDAY, 15 MARCH 2018

**REPORT OF THE PORTFOLIO HOLDER FOR REGENERATION****FEES AND CHARGES – DEVELOPMENT MANAGEMENT****EXEMPT INFORMATION**

None

**PURPOSE**

To seek member approval to an increase in fees for High Hedge Complaints and Pre Application enquiries, and the introduction of a fee for naming and numbering of new developments and planning applications where permitted development rights have been removed or an Article 4 Direction imposed.

**RECOMMENDATIONS**

1. That the revised fee of £350 for processing High Hedge Complaints to be charged from the 1<sup>st</sup> April 2018 is approved.
2. That the revised fee for pre application enquiries of £1,000 for large scale major proposals, £750 for medium scale major proposals, £250 for small scale major proposals and £125 for minor proposals to be charged from the 1<sup>st</sup> April 2018 is approved.
3. That the introduction of a charge for naming and numbering of new developments as set out in the report to be charged from the 1<sup>st</sup> April 2018 is approved
4. That the introduction of a charge for planning applications where permitted development rights have been removed or an Article 4 Direction imposed as set out in the report to be charged from the 1<sup>st</sup> April 2018 is approved

**EXECUTIVE SUMMARY**

Each year service areas are required to evaluate the status of each fee and charge to identify if it is set at full cost recovery, part subsidised or subsidised. This information can then be used to evaluate the options to adjust the fee and charge within the framework of the Policy and in consultation with Cabinet as appropriate.

Financial regulations state that the setting and reviewing of fees, charges and other income sources must be authorised in accordance with the detail set out in the Constitution and the Scheme of Delegation, under the General Delegations of Powers and Duties to Authorised Officers, which states:

In consultation with the Executive Director Corporate Services and where necessary the Portfolio Holder, to set, unless the charge requires Cabinet approval, rent, fees, charges and other income levels unless any changes:-

- Exceed inflation by more than 3% and/or
- Involve a change in policy; or
- Potentially have significant political implications.

Proposals are being recommended which would result in fees and charges that exceed inflation by more than 3% and in the case of naming and numbering, would result in a

change in policy. Set out below are a set of proposals for planning fees and charges for the forthcoming financial year

High Hedges complaints

When the High Hedges Complaints legislation was first introduced in 2006 there was only limited understanding of the number and complexity of applications that might be received and as a consequence it was a matter of providing a “best guess” of what might be involved. Tamworth proceeded on the basis that the processing of a complaint would take a similar time to that expended on dealing with a householder planning application i.e. 4 hours, and set the fee at £212.

Experience has shown that since the introduction of the Anti-Social Behaviour Act, that allowed High Hedge complaints to be made, the Borough Council has received 11 complaint applications, 2 off which ended up at appeal. In reality the time taken to assess high hedge complaints is well in excess of that originally estimated and as a consequence it is considered that a review of the fees charged is warranted. A review of current charges being made by other authorities indicates that the average fee is just under £345 in England and £320 in Wales and the majority of councils offer no concessions.

It is recommended that the fee charged by the Borough Council should be increased and a fee of £350, which is comparable with the national average be introduced. It is not recommended that any concessions be granted.

**If the recommendation was accepted this would result in an additional £300 per annum**

Pre application fees

Pre-application discussions on planning applications can be hugely beneficial, as both the prospective developer and the Borough Council have a better understanding of the opportunities and constraints which may impact on the development. Adopting a positive attitude towards early engagement means applications can be dealt with more quickly, with a more certain outcome and development is generally a better quality.

Although the Borough Council has always responded to pre application enquiries it is only during the last few years that the processes have been formalised and a fee introduced for some enquiries. This change to our working processes has reaped benefits, with involvement of non-statutory and statutory bodies at an early stage, and an opportunity for members to have a say on major developments prior to formal consideration through the planning process.

The charges introduced in 2012 relate only to the more significant type of developments and are being charged on the basis that they reflect the likely time input and number of staff involved. The current charges are

Large scale major	Small scale major	Minor
£500	£250	£100

- Large scale major (30 plus dwellings or 3000 square metres plus commercial where this has been identified, otherwise this relates to site areas greater than 1.5ha (residential) or greater than 3 ha (non-residential))
- Small scale major (10 - 29 Dwellings or 1000 – 3000 square metres commercial)

- Minor (1-9 Dwellings or 250 – 1000 square metres commercial where this has been identified, otherwise this relates to site areas greater than 0.5ha (residential) or greater than 1 ha (non-residential) and will include changes of use).

Since the start of 2015 a detailed record has been kept of all pre application enquiries received which show that 288 submissions have been made in a 31 month period, an average of just over 9 enquiries per month. Whilst a significant number of these enquiries have related to small developments, e.g. single dwellings and house extension and did not attract a fee, there were also some very large developments that required significant input by officers. At the outset it was not expected that full fee recovery would be achieved, but nonetheless an income of circa £5000 per annum was budgeted for. This target has been achieved and exceeded over the last 2 years.

Experience, since the introduction of the formalised arrangements, shows that the pre application service is appreciated by developers so long as a consistent and high standard service is provided. Furthermore the Borough Council has benefited by having the opportunity to influence development before ideas are fixed. Consequently it is considered that the practice of offering pre application advice has to be continued.

The continued provision of a pre application advice is dependent on having the resources available to provide an efficient and effective service that can deliver a response in a timely manner. However, this work must be undertaken by the Development Management Team at the same time as processing formal planning applications in accordance with its statutory duty.

The payment of a fee for pre application advice could help to secure additional resources to support the Development Management function.

A review of the working practices of other local planning authorities shows a wide variation in the way that pre-application matters are dealt with. Some authorities do not offer pre application advice, some offer the service but do not charge and some secure full cost recovery.

Having introduced a nominal charge in 2012 it is considered that a review of charges is due, but we should not lose the clear benefits that have been established in recent years. Consequently it is recommended that there should be a refinement of what the Council currently offers rather than wholesale changes.

It is recommended that the current practice of offering free advice for household extensions, commercial developments of less than 250 square metres, developments which would not require a planning application fee should be discontinued, but advice on developments which would not require a planning application fee e.g. Listed Building Consent and Tree Preservation Orders should continue.

Insofar as other developments are concerned it is recommended that the following charges be applied from 1<sup>st</sup> April 2018

Large scale major	Medium scale major	Small scale major	Minor	Householder
£1000	£750	£250	£125	£50

- Large scale major (50 plus dwellings or 5000 square metres plus commercial where this has been identified, otherwise this relates to site areas greater than 2ha (residential) or greater than 5 ha (non-residential))

- Medium scale major (30 - 49 plus dwellings or 3000 – 4999 square metres plus commercial where this has been identified, otherwise this relates to site areas greater than 1ha but less than 2 ha (residential) or greater than 2 ha but less than 5 ha (non-residential))
- Small scale major (10 - 29 Dwellings or 1000 – 2999 square metres commercial where this has been identified, otherwise this relates to site areas greater than 0.5ha but less than 1 ha (residential) or greater than 1 ha but less than 2 ha (non-residential))
- Minor (1-9 Dwellings or 0 – 999 square metres commercial where this has been identified, otherwise this relates to site areas no more than 0.5ha (residential) or 1 ha (non-residential) and changes of use).
- House extensions –any domestic extension, but excluding residential annex which will be treated as minor developments

**If the recommendation was accepted this would result in approximately £3000 additional income per annum**

### Naming and numbering

The Borough Council have never charged for naming and numbering of new development, although the resource input by members of the Development Management Team, particularly the Planning Support Officer, is significant. Large scale developments, in particular, require many hours work identifying acceptable names, and assigning numbers to properties in a meaningful and logical sequence. The naming and numbering of new properties, including re-naming and numbering when developers change their proposals, also requires co-ordination with the Post Office and other public bodies which can be a lengthy process.

In addition to large scale new developments the Council has responsibility for naming small scale developments e.g. infill developments, conversion of single dwellings to flats and renaming existing properties which follow similar procedures and has resource implications.

Naming and numbering also impacts on new and existing commercial premises which have to have a unique address that is fully recognised by all.

Nearby authorities who charge for naming and numbering do so at the following rates

#### Lichfield

##### *New build*

Single residential/commercial property	£150
Each additional residential or commercial property	£50
Change of development layout after notification	£50 per plot

##### *Existing properties/developments*

Addition or change of property name	£50
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#### Stafford Borough

##### *New build*

2-5 residential or commercial properties	£400
6-25 residential or commercial properties	£205 per phase plus £17.50 per plot
25+ residential or commercial properties	£400 per phase plus £12.30 per plot

Changes to layout after notification £32 per plot affected

*Existing properties/developments*

Adding or changing house or building name	£67.50
Rename of street where requested by residents	£400 plus £23.75 per property
House or building renumbering (inc. sub division)	£268
Conversion of single dwelling into multiple addresses	£400

North Warwickshire

*New build*

New developments – up to 10 plots	£120
New developments (additional per plot above 10 plots)	£15
Amend a development layout after confirmation	£30 per plot
Naming of street	£120

*Existing properties/developments*

Rename/renumber property	£60
Building conversions	£60
Adding a name to a numbered property	£60

A comparison of the fees, that would be sought using typical ranging from small to large developments, shows that the methodology adopted by Stafford is complex and can be influenced by how the developer sub-divides the site. It is recommended that a simpler approach adopted by Lichfield and North Warwickshire should be adopted in Tamworth. The suggested arrangement for Tamworth is as follows

*New build*

Single residential/commercial property	£150
Each additional residential or commercial property (e.g. 5 houses would result in £150 + 4 x £15 = £210)	£15 per plot
Change of development layout after notification	£25 per plot

*Existing properties/developments*

Addition or change of property name	£50
Building conversions (includes subdivision into flats)	£25 per unit created

**If the recommendation was accepted this would result in approximately £3500 additional income per annum**

Removal of permitted development rights or Article 4 directions

Regulation 5(2) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017 provides for a planning application fee to be charged by local planning authorities for applications necessary because a permitted development right has been removed. The right may have been removed either through an Article 4 direction or through a condition imposed on a planning permission.

In the past it has not been possible to charge for applications arising from the removal of permitted development, or as a consequence of the imposition of an Article 4 Direction. This situation has changed since the new regulations came into force on 17<sup>th</sup> January 2018.

A snapshot of how many applications were submitted without the need for a fee was carried out for 2015, which is considered to be a representative year.

Out of a total of 474 applications submitted, 26 were not accompanied by a fee. Of these 26

(20.3%) of applications were submitted as a consequence of permitted development rights having been removed, or due to article 4 direction, 28 (21.9%) were prior notification applications, 43 (33.6%) were applications for works to protected trees, 14 (10.9%) related to listed buildings, 12 (9.4%) were resubmissions, 4 (3.1%) were County Matters and 1 (0.8%) related to development involving disabled facilities

It is recommended that a fee of £50 is introduced to cover the cost of processing applications for those applications required as a consequence of “permitted development” rights being removed, or where Article 4 directions apply.

**For 2015 this would have resulted in an additional income to the authority of £1300**

## **OPTIONS CONSIDERED**

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|----------|---|
| Option 1 | Retain fees and charges for High Hedge complaints and Pre-application enquiries at current levels and introduce no charging for naming and numbering, or “permitted development” applications         |
| Option 2 | Retain fees and charges for High Hedge complaints and Pre-application enquiries at current levels and introduce charging for naming and numbering, but not for “permitted development” applications   |
| Option 3 | Increase fees and charges for High Hedge complaints and Pre-application enquiries at current levels and introduce no charging for naming and numbering, or “permitted development” applications       |
| Option 4 | Increase fees and charges for High Hedge complaints and Pre-application enquiries at current levels and introduce charging for naming and numbering, but not for “permitted development” applications |
| Option 5 | Increase fees and charges for High Hedge complaints and Pre-application enquiries at current levels and introduce charging for naming and numbering, and for “permitted development” applications     |

## **RESOURCE IMPLICATIONS**

If all of the increases, as detailed in this report, are approved it should generate overall somewhere in the region of £8k of additional income for the authority each year.

### High Hedges legislation

Currently the number of high hedge applications received by the authority is not high, but experience has shown that when applications are received officer input can be spread over a significant period of time. The time spent on assessing high hedges complaints exceeds that estimated when the legislation was first introduced, and a correction in the fees is required to align the cost with current experience and try to achieve full cost recovery. However, it is considered that the fee should not be set at a level that would prevent members of the public from making high hedge complaints, on cost grounds, and therefore an element of subsidy could be considered. The resultant fee should therefore fall within the “fair charging policy”. In this respect this report sets out what other authorities, who provide the same service, charge and it is considered that an increase in the charge from £212 to £350 is fully justified.

The High hedges complaint procedure is a statutory function so there is no potential for the authority to decline the application, and given the number of applications received outsourcing is not a realistic option

### Pre application fees

Charges for pre application enquiries were introduced in 2012. These discretionary charges were set at a level that would encourage developers to talk to officers at an early stage, but not so high as to deter them from doing so. Officers, and members of the Planning Committee, have recognised the importance of pre application enquiries with early input

ensuring that formal applications are “right first time”, with all necessary information submitted, and areas of conflict resolved before commitments are made to costly and time consuming work being undertaken. This has positive benefits to the planning service when formal applications are made, as the level of work undertaken to resolve problems can be significantly reduced. Speculative applications, with little prospect of support from the local planning authority, can also be identified and avoided.

It is considered that the fees proposed represents a “fair charging” option, taking into account the current levels being charged and charges made by other local planning authorities that provide similar services

#### Naming and numbering

Charging for naming and numbering is a discretionary option available to the authority, and historically no charge has been made. Recent experience, particularly aligned to naming and numbering of large residential developments has shown that many hours can be taken naming and numbering new developments, and sometimes the naming and numbering has to be re-visited as developers change their proposals with amendments to layouts and house numbers or types.

Consideration has been given to charges made by neighbouring authorities that currently make charges, and the proposals set out above provide what is considered to be a “fair charge”.

#### Removal of “permitted development” rights via a condition attached to a planning permission or removal of “permitted development” rights via the introduction of an Article 4 direction

Historically the government has not allowed fees to be charged for these types of applications, on the basis that the local authority is removing a right that the majority of individuals/businesses would normally enjoy. However there is recognition in the recent legislation that there is a cost associated with processing such applications and this could be borne by the person carrying out the development.

The amount of administration involved in processing this type of application is similar to a normal planning applications, but inevitably the complexity of the development does not require the same level of input by a qualified planning officer, more commonly being dealt with by more junior members of staff, Consequently it is considered that any charge should be set at a “fair” level. At this moment in time, given the very recent introduction of the legislation, there is no data available regarding what levels of charge might be set by neighbouring authorities.

The fee levels have been deliberately set at an affordable level, so that applicants will not seek to avoid making applications, which may in turn impact on the authority’s enforcement service.

### **LEGAL/RISK IMPLICATIONS BACKGROUND**

Legal authority is given to charging for the services as set out in the Background Information listed below

If fees and charges are not introduced in accordance with recommendations the level of service offered to the public will be reduced and developments may not be produced to the desired quality level. This in turn would impact on the reputation of the Council

### **SUSTAINABILITY IMPLICATIONS**

All planning decisions should have sustainability at their heart. In the absence of properly funded resources to support the Development Management function poor advice will result leading to poor planning outcomes and less sustainable forms of development.

High Hedges

Anti-social Behaviour Act 2003 ('the Act) and the High Hedges (Appeals) (England) Regulations 2005

Pre-application enquiries

Section 93 of the Local Government Act 2003

Naming and numbering

Section 64 and 65 of The Town Improvement Clauses Act 1847

Section 21 of The Public Health Act 1907

Section 17, 18 and 19 of The Public Health Act 1925

The Local Government Act 2003 (Section 93)

#### **REPORT AUTHOR**

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#### **LIST OF BACKGROUND PAPERS**

None

#### **APPENDICES**

None