

Report of:	Executive Member for Regeneration Director of Regeneration
Submitted to:	Executive
Date:	8 November 2022
Title:	Planning Fees
Report for:	Decision
Status:	Public
Strategic priority:	Quality of service
Key decision:	No
Why:	Decision does not reach the threshold to be a key decision
Urgent:	No
Why:	Not Applicable

Executive summary

This report sets out the proposals to review existing fees in the Planning Service and seeks to introduce new fees. The services covered by this report represent a significant use of officer time and represent a significant drain upon the Service's resources. This in turn impacts upon the Service being able to meet and deliver its statutory obligations and maintain required levels of service delivery. It is recognised however that many of those services offered whilst discretionary are encouraged to be provided, and in doing so improve the customer experience and the quality of service that the Planning Service provides. Under the Local Government Act 2003 and Planning and Compulsory Purchase Act 2004 the Council has the ability to charge for providing these services.

The fees proposed are set to recover the costs of delivering the service being provided, and can be grouped under the following categories:

- i. Pre application advice and guidance;
- ii. Building Control fees;
- iii. Other planning fees.

For those fees and charges not covered by this report and set by the Council it is proposed that in line with the Financial Recovery Plan 2022/23 these will be increased by 10%

Purpose

2. To seek approval for the introduction of a schedule of new fees, a review of existing fees, and an overview of the processes for increasing fee income for the functions falling within the remit of the Planning Service.

Background and relevant information

3. The Planning Service undertakes a number of functions which are both statutory and non-statutory in nature. The ability to charge for these services is largely discretionary, in that as an authority the Council can determine if they charge for the service, and non-discretionary for which a charge must be set. For non-discretionary fees these are either set nationally (e.g. planning application fees) or locally (e.g. building regulation fees), these fees are outside of the scope of this report. For the other services provided by the Planning Service the Council can charge a fee for doing so. Many of these services whilst not statutory in their nature e.g pre application advice can significantly help with the efficient and effective delivery of the statutory functions and help provide a better customer facing service and experience for the customer.
4. Discretionary fees should be set to recover costs of delivering the service offered. The fees covered in this report fall into the following categories:
 - i. Pre application advice and guidance;
 - ii. Building Control fees;
 - iii. Other planning fees.

Pre Application Advice/Guidance

5. Local Planning Authorities are strongly encouraged through the National Planning Policy Framework (NPPF) to provide a planning pre-application advice service and to actively and positively engage with prospective applicants. Middlesbrough Council currently provides a pre-application service to all. In doing so the Planning Service provides informal advice to those considering submitting a planning application, to help guide the form and content of that application with a view to streamlining the process by helping applicants shape their proposals prior to submission, ensuring that the application submission is complete and helping applicants to understand the relevant planning policies and issues related to their application.
6. There are a number of advantages to providing such a pre-application service.
 - Influences an application at its formative stage
 - 'Raise the bar' on both quality and impact of the scheme, beyond 'statutory minimum'
 - Building external professional relationships
 - Enhancing the reputation of the town as a place to invest
 - Ensures application comes in clean, reducing officer time commitment later
 - Filters inappropriate schemes out early Pre-application advice saves time and effort for applicants in getting a proposal right rather than waiting until a scheme is fixed

and formally submitted as a planning application which may then require expensive amendments or delays and costs associated with a refusal.

7. Whilst Local Planning Authorities are strongly encouraged to offer such a service it is not a statutory requirement and is discretionary. Over recent years there has been a steady increase in the number of pre-application enquiries that the Service has received.

Year	Minors/Others	Major ¹
2017	555	18
2018	608	9
2019	621	17
2020	745	26
2021	904	16

¹ This is probably an underestimate as not all major pre-application enquiries are processed through the system.

This clearly shows that there has been a 60% increase in the number of enquiries in the last 5 years. Even allowing for a minimum period of time to deal with each enquiry responding to this volume of pre-application queries would take up the time of one officer for a full year. This has an impact upon the ability of the statutory function of the Service to process planning applications.

8. Local Planning Authorities can make charges for pre application advice by virtue of powers in the Local Government Act 2003 and Planning and Compulsory Purchase Act 2004. Whilst its neighbours charge for such a service Middlesbrough Council does not. It is proposed to introduce a schedule of charges for this service with the expectation that this will generate sufficient fee income to employ an additional member of staff to be able to manage the workload associated with dealing with pre application advice.
9. It is proposed to offer a hierarchy of fees based upon the type and nature of proposal. The following categories are proposed:

Strategic Developments

- Residential scheme 100+ dwellings (or 5Ha+)
- Commercial/industrial/office/retail 10,000 sqm+ floorspace
- Outline/Hybrid applications (5Ha+)

Major Developments

- Residential 10-99 dwellings (or >0.5Ha and <5Ha)
- Commercial/industrial/office/retail 1,000 – 9,999 sqm floorspace (or >1Ha and <5Ha)
- Outline applications <5Ha

Minor Developments

- Residential 1-9 dwellings (or <0.5Ha)
- Commercial/retail/employment/offices <1,000 sqm (or <1Ha)

Other

- Householder developments
- Advertisements

10. It is recognised that no two schemes are alike and that differing schemes will require varying levels of input and advice from officers. To reflect this for each category two sets of fees are identified. These are for the initial advice provided, plus fees for any further

and advice and guidance required beyond this. It is also recognised that some complex schemes will sit outside of the scope of this fee structure and for these the Local Planning Authority will agree a bespoke fee and service reflective of the nature of advice required.

11. For homeowners it is recognised that interacting with the planning process for some can be seen as an expensive and complex process. As a consequence the Planning Service will continue to provide free advice for those householder enquiries where the applicant is simply seeking to establish whether planning permission is required or not. In such circumstances it is considered that a fee would discourage prospective applicants from engaging with the service and could result in an increase in unauthorised developments and a consequent increase in enforcement activity.
12. Applying the fees proposed, and assuming that only half would either have come forward as pre-application enquiries as being in scope, this could have generated in excess of £80,000 of income for 2021. It is also anticipated that the introduction of fees would discourage those from engaging who have no intention of submitting a planning application. Such enquiries can take up an inordinate amount of officer time that would be otherwise best utilised in assessing planning applications.
13. The workload associated with dealing with pre application enquiries is quite significant, even the most basic enquiry can take up an hour of officer time, and the most complex can take up many hours of several officers. As outlined above this could equate to one full time officer's time for a full year. As a consequence it is proposed to use the additional income to employ a planning officer (grade J) to help better manage workloads and free up officer time to address pre-application enquiries.

Building Control Fees

14. There are a number of areas within the Building Control function where fees are not currently charged for the service provided, or where fees are not secured through a lack of capacity to undertake the work. The income associated with these fees is higher than the cost of employing a member of staff to secure them. These fees can be broken down into the following areas:
 - i. Reversion fees
 - ii. Plan checking fees
 - iii. Sports ground safety certificates
 - iv. Re-opening of historic applications

Reversion fees

15. Under the Building Act any work undertaken requiring Building regulations approval that starts prior to the necessary approvals being in place, or before an Initial Notice is issued by an Approved Inspector, must be dealt with by the Local Authority Building Control team. Additionally where an Approved Inspector is no longer able or willing to undertake work this reverts to the Local Authority Building Control service. There is a fee associated with doing this. In recent years a number of Approved Inspectors have gone into receivership, folded, and are no longer able to complete those building projects they were working on. At present the Service only charges for officer time spent, however it is common practice in such circumstances it is common practice to make a charge. It is recommended that the fee structure is amended to reflect this approach and for the regularisation fee to be used.

16. Following the demise of Aedis, a private Approved Inspector, it is estimated that there are approximately 500 schemes in Middlesbrough where an Initial Notice has been made and where there is no completion certificate in place. These schemes would need to be dealt with by the Local Authority. Unfortunately owing to a lack of staff resources it has not been possible to actively address these schemes. Applying the current regularisation charges it is estimated that this could generate between approximately £100,000 and £500,000 of additional income in total. On annual basis with a programme in place of chasing these cases down could generate in excess of an additional £30,000 in income which would be sufficient to enable the Council to employ additional resource to ensure these developments are dealt with in an appropriate manner.

Plan checking fees

17. To better reflect the work and time involved in undertaking plan checking for housing developments it is proposed to change the fee to a fixed fee of £180 + VAT (£216) for each house type.

Sports ground safety certificates

18. A sports ground safety certificate is required to operate certain events from sports grounds. There are two types of certificate:

- i. a general safety certificate which covers the use of the stand for viewing an activity, or a number of activities, specified in the certificate for an indefinite period which starts on a specified date
- ii. a special safety certificate which covers the use of the stand for viewing a certain specified activity or activities on a certain specified occasion or occasions

19. A Local Authority may set a fee for such certificates. Going forward the intention would be to charge for those activities requiring a certificate as specified above in paragraph 16(ii). The fee associated with this process will be set according to the individual circumstances of each application. It is estimated that based upon past certificates issued that this could generate an additional £2-3,000 per annum.

Re-opening historic applications

20. Occasionally for various reasons work on a development project is paused and work stops for a period of time. Where there has been inactivity on a site for more than 3 years and it is necessary to re-open the application a fee will be charged, and additional charge will be payable where it is necessary to retrieve the application file from storage.

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|-----|---------------------------------|------|
| i. | Re-opening historic application | £150 |
| ii. | File retrieval | £25 |

Other planning fees

21. A schedule of charges already exists for a number of services provided by the Planning Service. As part of this exercise these have been reviewed and further additions/amendments are proposed. The schedule needs to be updated to reflect changes in the services offered and the costs associated with delivering them.

Historic Environment Record

22. The Local Planning Authority maintains a Historic Environment Record providing a record of all known designated and non-designated archaeological sites and historic landscapes in the town. This information is often required to inform planning applications and other proposals. The proposed fees are:

- i. Expedited request £300
- ii. Standard request £175

Self build and custom build register

23. The Council approved at a meeting of the Executive xx 2019 the introduction of a self-build and custom housebuilding register. As part of this decision it also approved a charging schedule. The following fee structure is proposed:

- i. Initial application: £75
- ii. Annual fee: £50

S106 Monitoring fees

24. Once planning obligations associated with planning permissions have been agreed, they need to be implemented and enforced in an efficient and transparent way, in order to ensure that contributions are spent on their intended purpose and that the associated development contributes to the sustainability of the area. This will require monitoring by Local Planning Authorities, which in turn may involve joint working by different parts of the Authority.

25. It is proposed to introduce the following charges for the monitoring of S106 Agreements:

- i. For minor development (per obligation) £350
- ii. For major development (per obligation) £500

26. Complex Agreements with a range of obligations and trigger points will require the above payments to be made for each obligation/trigger point.

File retrieval and copying

27. Costs are already in place for providing copies of planning and building control applications. Since these charges were introduced the Council has placed all its paper records into off site storage. The costs of retrieving these files is reflected in existing charges, and as a consequence it is not proposed to amend the fees charge. These charges will however be extended to also apply where an electronic/digital copy is requested of a file to reflect the costs associated with file retrieval and officer time involved.

Other fees and charges

28. There are a number of other fees and charges within the Service not covered by this report. In accordance with the Financial Recovery Plan 2022/23 report presented to Executive on the 18th October 2022 an increase of 10% will be applied to those for which the Council has discretion to set.

What decision(s) are being recommended?

That the Executive Member for Regeneration:

- Approves the schedule of fees in Appendix 1 and that the fees come into effect on 1st December 2022
- Approves the addition of a new planning officer post (Grade J) within the Development Control Team to assist with dealing with the workload associated with pre application enquiries.
- Approves the addition of a new Building Control Apprentice post within the Building Control Team to assist with dealing with the workloads associated with dealing with reversion applications
- Approves that the fees are monitored and reviewed on an annual basis, and subject to the review all fees are increased annually by CPI + 1% unless otherwise amended.
- Approves that all other fees and charges within the Service for which the Council has discretion to set are increased by 10% in accordance with the approved Financial Recovery Plan 2022/23

Rationale for the recommended decision(s)

29. The cost of providing the services listed in the schedule in Appendix 1 and detailed in this report represent a significant use of officer time and represents a significant drain upon the Service's resources. This in turn impacts upon the Service being able to meet and deliver its statutory obligations and maintain required levels of service delivery. It is recognised however that many of those services offered whilst discretionary are encouraged to be provided, and in doing so improve the customer experience and the quality of service that the Service provides. Under the Local Government Act 2003 and Planning and Compulsory Purchase Act 2004 the Council has the ability to charge for providing these services.

Other potential decision(s) and why these have not been recommended

30. Two other options have been considered. These are:

- i. to continue to provide a free service for those services for which is there no current fee, and maintain existing fees for those services charged at current levels; or
- ii. to cease providing those services for which no fee is currently set, and for which there is no statutory requirement to deliver.

31. Continuing to provide all services for free has an unacceptable impact upon service delivery to the detriment of the Service in processing planning and building control applications. This increases the potential for poor quality decisions and the likelihood that more decisions will result in planning appeals that the Council cannot defend and end up with costs being awarded against the Council. As the Service does not have the resources available to deal with the level of enquiries it receives this leads to significant delays in responding and the quality of information provided which in turn can have a negative impact upon outcomes.

32. Withdrawing the pre application advice service is not considered a viable option. Doing so could lead to poorer quality applications being submitted and more officer time being spent addressing these issues at application stage and as such is counterproductive. Doing so could also see an increase in enforcement activity as more unauthorised works occur.

Impact(s) of the recommended decision(s)

Legal

33. Local Planning Authorities can make charges for services offered by virtue of powers in the Local Government Act 2003 and Planning and Compulsory Purchase Act 2004.

Strategic priorities and risks

34. The proposals will through ensuring that the Service is properly resourced positively impact upon the following strategic risks

- Failure to achieve a balanced budget
- Failure to deliver the Council's strategic and directorate priorities

Human Rights, Equality and Data Protection

35. This report has been subject to an initial Impact Assessment (IA), which accompanies this report (see Appendix 2). This identifies that a full IA is not necessary.

Financial

36. As outlined in the body of the report the introduction of a schedule of fees as set out in Appendix 1 will generate additional income. On the basis of enquiries/activities over previous years this level of income could be in excess of £50,000 pa within development control and in excess of £30,000 pa within Building Control. Against this there would be costs of employing an additional officer at grade J, and a Building Control Apprentice.

37. The proposals will not have an impact on existing revenue budgets or result in additional revenue pressures. However if the additional income is not in line with predictions then it will be necessary to review any additional posts and structures introduced as a consequence of the projected fee increases. Income levels associated with the proposed fee regime will therefore need to be closely monitored to ensure that the income levels predicted are achieved and any necessary action taken if not.

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline

Appendices

1	Proposed fee levels
2	
3	

Background papers

Body	Report title	Date

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