

CABINET
26 January 2023

NEW ADMINISTRATIVE FEES: DEVELOPMENT MANAGEMENT AND BUILDING CONTROL

1. Summary

- 1.1 The report summarises the need to introduce new admin fees for Development Management and Building Control in order to cover the costs of staff time spent on carrying out the activities regarded as discretionary 'extensions' to a statutory service.

2. RECOMMENDATIONS

- 2.1 That the admin fee of £50.00 for providing copies of Building Control decision notices and certificates, be agreed.
- 2.2 That the criteria for charging admin fees for invalid planning applications, as set out in paragraph 3.13 of the report, be agreed.
- 2.3 That the admin fees proposed for invalid planning applications, as set out in paragraph 3.14 of the report, be agreed.
- 2.4 That delegated authority be granted to the Head of Planning Services and Development Manager to waive or reduce the admin fees applicable to any transaction.

3. Background and Discussion

- 3.1. As the nature of providing the Building Control Service and Development Management service changes, so does the resource required to provide these services. Matters are identified below which are resulting in increased cost to the services and suggested fees are set out which seek to cover some of the cost of the staff resource.
- 3.2. Section 93 of the Local Government Act 2003 (as amended), provides power to apply a charge for discretionary services. However, where the local planning authority is mandated or under a duty to provide a statutory service, the section 93 power can only be relied on if the discretionary service is an "extension" to the statutory service. An 'extension' includes discreet areas of activity such as additions or enhancements to the statutory service above the level or standard that the local planning authority has a duty to provide e. g. advisory services linked to planning and development control. The 'extension' should make an important contribution to the operation of the statutory service.
- 3.3. Section 93(3) of the 2003 Act places authorities under a duty to secure that, taking one financial year with another, the income from

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discretionary charges does not exceed the costs of provision i.e. limited to cost recovery.

Building Control

- 3.4. Requests are received by Building Control for copies of decision notices and completion certificates by solicitors, applicants and householders. Approximately 100 requests are received each year. It is expected that this number will continue to increase with the growth in residential properties in the Borough and the increased trends for extensions to properties. These completion certificates are not public documents, which can be downloaded from the website and so have to be provided by the Building Control team.
- 3.5. Issuing copy documents is not just a matter of sending an existing electronic copy, as many records are not stored electronically in a format that can be sent. Before the introduction of the current IDOX document management system, all records were stored on microfiche and completion certificates were not automatically issued for all completed applications. In addition, there are a significant number of applications that remain uncompleted, as a final inspection was never requested.
- 3.6. Therefore, most requests for copy documentation require officer time in taking telephone calls, responding to emails and researching the historic records, before documents can be produced and sent. It is recommended that the cost of this officer time (approximately 1-2 hours) for research, is accounted for in the fee proposed to be charged for providing this additional service.
- 3.7. A survey of charges made by other local authorities across Kent has shown that most charge £50 or more per copy decision notice or certificate.
- 3.8. It is recommended therefore that in order to cover costs of officer time in locating, retrieving and extracting the information requested, a charge of £50.00 be made per copy of a decision notice or certificate.

Development Management

- 3.9. An increasing number of planning applications made to the Council as local planning authority are invalid when submitted, most often due to incomplete plans or key documents missing. The Planning Services technical support officers can spend a significant amount of time advising applicants and their agents on the information that is required. Often this is repeated advice on basic matters for which there is clear advice on the Planning Portal and the Council's website. Some of these applications never get to the point where they can be validated and passed to a planning case officer for consideration.
- 3.10. As an indication of the time that can be spent on validating an application all forms and plans are downloaded from the Planning Portal by Planning Services technical support officers. These documents then have to be checked carefully, firstly, that all the plans and documents required have

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been submitted and secondly, that the plans match, have a scale bar etc. The application is logged in the Council's system and the CIL forms are also checked and logged. Dependent upon the nature of the application, this can take between 1 hour and 7 hours. When an application is invalid, an email is sent to the applicant/ agent setting out the reasons. This then usually results in a phone call or further email communication. If revised documents are submitted, they need to be reviewed again and where invalid, a further email is sent. If no documents are received, warning letters are sent. Where an application is complex or a major application, senior planning officers will also input into the validation process. The time spent on the process of considering and returning invalid applications can therefore vary from 3 hours to 10 hours or more, dependent upon the complexity of the application and the knowledge of the applicant/agent. It is most often the small to medium applications that are returned invalid.

- 3.11. After the applicant has been given a warning and adequate time to amend the submission; if an application cannot be validated, the local planning authority must notify and return the fee to the applicant, as required by reg.3(5) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 – 'Any fee paid pursuant to this regulation shall be refunded if the application is rejected as invalid'. The return of the fee involves further officer time to raise a refund.
- 3.12. In accordance with the 2012 Regs, the local planning authority cannot simply deduct an admin fee from the fee to be refunded under reg.3(5). Any charges for returning invalid applications will then involve raising an invoice, which will generate further officer time.
- 3.13. However, in order to recoup some of the admin costs of the time spent on these poor quality applications and discourage submission of incomplete applications, it is recommended that an admin fee is introduced for invalid planning applications which are registered but not made valid in the following circumstances:
 - i. If a satisfactory response to an invalid letter is not received within the 28-day expiry period;
 - ii. If a statutory application fee is requested to be transferred from a previous closed invalid application to a new submission;
 - iii. If an invalid application is withdrawn after notification that it is invalid.

The admin fee must be charged separately and if not paid, recovered as a debt.

- 3.14 The charges recommended below have been benchmarked against other local authorities, who charge for returning invalid applications.

It is recommended therefore that in order to cover costs of officer time in dealing with invalid applications and the cost of returning planning application fees, the following charges be applied:

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Charges:

- £50.00 charge for householder, advertisement and similar applications
- £100.00 charge for minor, lawfulness and similar applications
- £200.00 charge for major and similar complex applications

In exceptional cases, the admin costs may be waived or reduced. Each application will be considered on its own individual merits.

4. Relationship to the Corporate Plan

As this relates to new development, it is relevant to the Council's overall vision for the area to make Dartford a place of quality, choice and safety.

5. Financial, legal, staffing and other implications and risk assessments*

Financial Implications	The charges if agreed will need to be included in the fees and charges to be set for 2023/24.
Legal Implications	As discussed in the body of the report.
Public Sector Equality Duty	The charge will not have any impact on the Public Sector Equality Duty. The validation requirements for planning applications are set out in national legislation and the local validation list, which is agreed separately by Council as local planning authority. Applications can only be made invalid where they do not comply with these requirements. There is no requirement therefore for a Customer Access Review.
Crime and Disorder duty	None
Climate Impact Assessment	As the proposed fees do not amend existing practices, the impact will be neutral.
Staffing Implications	None
Administrative Implications	None
Risk Assessment	No uncertainties and/or constraints

7. Appendices

None.

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BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date / File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
None		Sonia Collins (01322) 343620	Planning Services	N/A