

Bath & North East Somerset Council		
DECISION MAKER:	Cllr Ball, Cabinet Member for Planning & Licencing	
DECISION DATE:	On or after 25 th February 2023	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3435
TITLE:	Additional Discretionary Charges in Planning	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1 - Equalities Impact Assessment		

1 THE ISSUE

- 1.1 The council continues to endeavour to operate in the most efficient and effective way to maximise the resources it has. The Planning Service already has a number of existing chargeable discretionary services and would like to extend the range and type of those charges alongside further efficiency measures. This is not new policy but an extension of the existing policy and does not affect the statutory duties of the planning service.
- 1.2 Charges are levied on a cost recovery basis and aim to be reasonable and fair. The proposal is to introduce new fees on 1 April 2023. This report describes the new charges, the basis of those charges and the alternatives for customers to paying for discretionary services.

2 RECOMMENDATION

The Cabinet member is asked to agree to the Planning Service implementing:

- 2.1 A charge for requests to confirm that conditions have been discharged on a specific site/property**
- 2.2 A charge for Community Infrastructure Levy (CIL) advice**
- 2.3 A new range of charges for history searches and historic document provision**

2.4 A charge for requests from developers/ landowners to meet with Planning Policy about land and site allocations

3 THE REPORT

- 3.1 By their nature the charges proposed are discretionary and therefore customers are not required to take up these services and can choose not to. There are alternatives available to customers and applicants such as self-serve, other statutory application/process or to engage a private specialist agent or solicitor
- 3.2 Planning already has a number of very successful and well used discretionary charges in place such as pre-application advice, planning performance agreements and S.106 monitoring fees; customers and agents expect to pay for additional services in Planning which is the norm across all Local Planning Authorities
- 3.3 The fees proposed are calculated on a cost recovery basis following robust analysis of time spent by officers on certain tasks and the cost of delivering services including corporate and service on-costs. For the most part charges are calculated using a officer hourly rate figure and aim to be reasonable.
- 3.4 All Planning discretionary charges are reviewed periodically with Finance colleagues to ensure consistency and accuracy and may change as a result
- 3.5 All fees will be charged upfront to maximise efficiency of collection, either through a self-serve paylink form or directing customer to the council's payment portal
- 3.6 All discretionary charges are increased by the rate of inflation each financial year
- 3.7 It is not possible to calculate the income attached to each of these new charges because the amount of requests for each of these services will not be known until charges are introduced
- 3.8 Requests to **confirm conditions have been discharged** or complied with on one or more applications are usually requested by solicitors during property or site purchase, sometimes on large developments. The information is usually available on the website but they want the formal written confirmation from the LPA before completing the purchase. As these are often complex sites, this can be time consuming.
- 3.9 Customers have the option to self-serve for this information by either searching the website to find the relevant conditions applications, site visit for visual evidence, or in certain circumstances, submit a Certificate of Lawfulness application which is a statutory application type with a set fee
- 3.10 Other councils like Cornwall charge for this service
- 3.11 We propose introducing a 2 tier charging system based on an officer hourly rate of around £50 - £70 per hour
 - (1) Up to 4 conditions discharges to be checked and confirmed
 - (2) 5 or more condition discharges to be checked and confirmed

- 3.12 In order to bring this charge in by 1 April this fee will be added to the appropriate service level within the pre-application advice service in the interim
- 3.13 The long term aim will be to create a separate webform to request this service
- 3.14 Requests for advice related to **Community Infrastructure Levy (CIL)** will be brought in line with other planning related advice and become chargeable
- 3.15 Other councils like Cornwall charge for this service
- 3.16 The contact details for CIL advice will become the generic planning contact details meaning customers will be directed to self-serve or pay for specific advice from the CIL/S106 Monitoring Officer
- 3.17 CIL is a national tax and as such there is a large amount of support, information and guidance available both on the B&NES [CIL website](#) and the UK [Government website](#)
- 3.18 The council does retain 5% of CIL income to cover the administration of CIL. However this is for the management and collection of CIL as a national taxation scheme not the provision of personal advice and guidance over and above what is published on the government and council websites. Applicants have choices other than to request bespoke individual advice from Planning by talking to their Planning Officer during the course of their planning application or their professional planning agent or legal expert/accountant, or of course consult the websites mentioned above
- 3.19 In order to implement this charge by 1 April this fee will be added to the appropriate service level within the pre-application advice service in the interim
- 3.20 **Planning History and documentation** requests currently total about 400 per year
- 3.21 The planning public access website displays the full planning history back to 2006 and application numbers only back to 1996. Prior to 2006 documentation is stored in range of formats (paper, microfiche, CD) which are not easily accessible and take the council time to find, and provide
- 3.22 Documentation requests largely come from Solicitors or other businesses asking for specific decision notices or S.106 agreements related to property or land purchase following a Land Charge search. They will usually include application reference numbers for applications not available online. The solicitors recharge their clients for this work including the fee for the land charge search
- 3.23 Other more complex requests are from residents or others researching a property they live in or are interested in buying and these take considerably longer as research is required by the Planning Support Team to find the relevant planning history and the application numbers
- 3.24 Many other councils charge for history searches and historic document provision

- 3.25 Note that Bath Record Office in the Guildhall hold all paper planning applications relating to what was Bath City Council prior to 2006 check the website for details and charges <https://www.batharchives.co.uk/> . Bath Record Office already levy a charge for property based research
- 3.26 The proposal is to create 4 services depending on what the customer is asking for
- (1) Decision Notices where application number is supplied
 - (2) S.106 Agreements where application number is supplied
 - (3) Plans and documents for one planning application
 - (4) History search on a property or site to request application numbers (further fees would be charged for documentation requests as a result)
- 3.27 Indicative fees for these services could be between £20 to £50 but this will be subject to change depending on the relevant officer hourly rate
- 3.28 **Housing & Employment Land Availability Assessment (HELAA) meetings** between Planning Policy Officers and developers take place at the request of the developers
- 3.29 Whilst the HELAA work of the Planning Policy Team is required by national policy and informs the Local Plan, which is a statutory function, it is not a statutory requirement or even necessary for the Planning Policy Team to meet with developers in order to progress this work. Some developers (not all) like to have these meetings to support their own outcomes
- 3.30 The meeting charge will be based on an hourly rate of the officers involved
- 3.31 Other councils like South Gloucestershire already charge for this service

4 STATUTORY CONSIDERATIONS

- 4.1 A specific power to charge was introduced by section 93 of the Local Government Act 2003 to give relevant authorities the power to charge for discretionary services. Discretionary services are defined as those services authorised by statute that a local authority is not required to provide but may do so voluntarily.
- 4.2 The Localism Act 2011 provides councils with a general power to charge for the provision of services <https://www.legislation.gov.uk/ukpga/2011/20/section/3/enacted>. There are limitations to this power to charge; the council only has power to charge if there is no statutory duty to provide the service and the recipient agrees to its provision. The limitations do not apply here because proposed charges do not cover any statutory duty, rather they are discretionary and customers / applicants have choices to either not request the service from the council or to self-serve.
- 4.3 Further the Local Government Act 1999 provides that a best value authority must make arrangement to secure continuous improvement in the way in which its

functions are exercised having regard to a combination of economy, efficiency and effectiveness”

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 Income will increase to support council finances and this has been taken into account in setting the budget for 2023/24
- 5.2 There are no anticipated increases in resources required to manage the new fees

6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

7 EQUALITIES

- 7.1 An EIA has been carried out and signed off. None of the identified groups are negatively impacted by introducing charges for these discretionary services as there is a choice as to whether to ask for that service or not

8 CLIMATE CHANGE

- 8.1 There is no impact on the council's aims regarding carbon neutrality or adverse impacts on the climate or nature emergencies

9 OTHER OPTIONS CONSIDERED

- 9.1 The option to continue to offer all the above services for free was considered but as legislation allows councils to charge for this work and other LPAs are already doing so this means that B&NES would not be maximising Planning service resources by covering the cost of delivering these services, particularly as they are discretionary and customers can chose not to use the service or self-serve
- 9.2 Another alternative would be to stop delivering these services altogether, however this would be removing the choice customers have to request the service in the first place, albeit for a reasonable fee.. This is possibly less fair than continuing to offer the services but also raise a charge
- 9.3 Existing discretionary fees are increased by the rate of inflation each year as part of existing efficient financial management and this will continue
- 9.4 For completeness Planning and Finance regularly undertake a review of all discretionary charges to ensure that costs continue to be covered and that fees are correct and fair as far as possible. Planning will adjust discretionary fees and charges at any point to ensure that this remains the case.

10 CONSULTATION

- 10.1 80% of applicants use a professional planning agent to help them with their application which is the recommended approach. Planning will advise local agents and architects of the new charges and advertise them on the website to

ensure that all customers are aware of the implications. We can also take a pragmatic approach to enable customers to get used to the new charges

10.2 The new charges may result in an increase in complaints and potentially reduction in demand for these services as customers either seek to self-serve or decide not to request the service. This will be closely monitored

10.3 Agents Forum list of about 100 agents and architects were advised in January 2023.

10.4 Further consultation is not considered necessary as this decision is not creating new policy, rather it is extending the existing policy of charging for discretionary planning services

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Background papers	Appendix 1 – Equalities Impact Assessment
Please contact the report author if you need to access this report in an alternative format	

