

**24 March 2015**

## **Ordinary Council**

### **Planning and Building Control Fees and Charges Review**

**Report of:** *Gordon Glenday, Head of Planning and Development*

**Wards Affected:** *All*

**This report is:** *Public*

#### **1. Executive Summary**

- 1.1 This report reviews the Council's Planning and Building Control non-statutory fees and charges. The current fees and charges have been benchmarked against the rates charged in other Essex councils and some East London Boroughs to gauge how Brentwood's rates compare with similar services elsewhere in the area.
- 1.2 The evidence suggests that Brentwood is currently undercharging for the planning and building control services it provides. It is therefore proposed to increase the planning and building control fees and charges to a more appropriate level given the level of service currently offered. It is also proposed to review the planning and building control fees annually to ensure they reflect the services provided and prevalent market conditions in the development industry. It is important for the Council to undertake an annual review of fees and charges moving forward as Council budgets continue to reduce and the need to increase income external sources such as fees and charges becomes increasingly important.
- 1.3 This report does not propose to increase the photocopying charges for Planning and Building Control.

#### **2. Recommendations**

**That the Council's Planning and Building Control non-statutory fees and charges be amended to the rates outlined in paragraph 4.3 of this report, with effect from 1 April 2015.**

**That annual review and future revision where appropriate of all Planning and Building Control non-statutory fees and charges be delegated to the Head of Planning and Development after consultation with the Chair of the Planning and Development Committee.**

**That in relation to recovery of costs relating to the inspection and monitoring of Section 106 Agreements, standard clauses be introduced to the Council Agreements where appropriate, with the agreement of the Head of Planning and Chair of Planning and Development**

### **3. Introduction and Background**

- 3.1 Local authorities charge for the planning and building control services they provide. Certain fees and charges such as planning application fees are set by central government and so cannot be changed at the local level. However, other fees and charges such as pre-planning application advice to developers is not a statutory function and so can be charged as it is up to the developer whether or not to utilise such services. Consequently, fees for these non-statutory services can be set by the Council. However, the rates set need to be reasonable and broadly reflect the cost of providing the service.
- 3.2 Brentwood's Planning and Building Control non-statutory fees and charges have not been reviewed or updated since May 2010. This report has considered the fees currently charged by the Council compared with some neighbouring Essex and London boroughs to give an idea of the varying rates charged in similar authorities. Rates across other councils vary depending upon the cost and level of service provided.
- 3.3 Given the Council's on-going budget challenges, there is increasing pressure on service areas to generate and increase income wherever possible to contribute to the funding of the Borough's services. The Planning and Development service therefore needs to maximise the opportunities to generate income from the non-statutory services it offers in order to provide a high quality of service to its customers.
- 3.4 Brentwood's high quality environment and proximity to London has always made it an attractive place to develop. With the development of Crossrail in the Borough, Brentwood is becoming an increasingly attractive place for the development industry looking to develop profitable schemes. The emerging Local Development Plan (LDP) and the need for Brentwood to

build around 5500 new homes over the next 15 years also means that development opportunities in the Borough will increase over the coming years. The Council's Planning and Development Department therefore needs to be able to provide a high quality service to the development industry in order to ensure that new development is of the highest quality. To provide the level of service required in the current local government budgetary environment means that recovering costs through planning and building control fees is imperative. The rates proposed in paragraph 4.3 of this report seek to generate an appropriate fee income for 2015/16 to meet the costs of delivering an effective pre-planning application service without making the charges prohibitive for developers.

#### 4. Proposed Planning and Building Control Fees and Charges

- 4.1 The Borough's current fees and charges are set out on the Council's website so that all developers know the rates in advance of preparing their planning applications. If the proposed changes to the Council's fees and charges are accepted, the new rates will need to be uploaded to the website so that developers are aware of the changes.

#### BRENTWOOD COUNCIL'S CURRENT PLANNING FEES

<p><b>No Fee</b></p>	<p>A single meeting with householders living within Brentwood Borough and/or their agents concerning the extension or alteration of their dwelling (but not the redevelopment or replacement of their dwelling).</p> <p>A single meeting with the operators of businesses within Brentwood Borough and/or their agents concerning the extension or alteration of their business premises, including the proposed display of advertisements relating to those premises (but not the redevelopment of their businesses premises)</p> <p>The owners or occupiers of listed buildings concerning structural alterations to their buildings that would require listed building consent.</p>
<p><b>Band A - £50 including:-</b></p>	<p>Second or subsequent meetings with those entitled to a free first meeting (except in relation to Listed Building Consent issues where all meetings are free). Non-residents of Brentwood Borough in connection with extensions or alterations of dwellings within the Borough.</p>
<p><b>Band B - £300 including:-</b></p>	<p>Development comprising the extension or alteration of buildings, the construction of ten dwellings or fewer or non-residential development of less than 1000 sq m.</p> <p>The change of use of buildings resulting in equivalent accommodation or other development including the 'variation' of conditions or planning obligations</p>
<p><b>Band C - £750 including:-</b></p>	<p>Developments in excess of ten dwellings or 1000 sq m of non-residential development where one meeting is required.</p> <p>Change of use of equivalent accommodation</p>

<b>Band D - £negotiable:-</b>	Larger or more complex Band B or C developments where a developer may wish to embark on a programme of meetings.
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4.2 Having benchmarked the Council's current rates against other comparative Boroughs, the evidence suggests that Brentwood does have the capacity and justification to increase its fees with immediate effect. If the proposed amendments to the Planning Service proposed in the March 2015 Planning Committee report "Modernising the Planning Service" are agreed and implemented, the rates charged for pre planning application advice needs to be annually reviewed to reflect the likely continuing improvements to the overall services provided.

4.3 In the meantime, it is proposed to increase the Planning Fees and Charges for the current Bands outlined in Table 1 to the levels outlined in Table 2. These rates include VAT.

#### **PROPOSED PLANNING FEES AND CHARGES**

<b>No Fee</b>	<p>A single meeting with householders living within Brentwood Borough and/or their agents concerning the extension or alteration of their dwelling (but not the redevelopment or replacement of their dwelling).</p> <p>A single meeting with the operators of businesses within Brentwood Borough and/or their agents concerning the extension or alteration of their business premises, including the proposed display of advertisements relating to those premises (but not the redevelopment of their businesses premises)</p> <p>Pre-application advice on works to protect trees and legal advice and support on Section 106 obligations can be provided at a cost to developers if the service is requested</p>
<b>Band A - £100 including:</b>	<p>Second or subsequent meetings with those entitled to a free first meeting.</p> <p>Non-residents of Brentwood Borough in connection with extensions or alterations of dwellings within the Borough.</p> <p>The owners or occupiers of listed buildings concerning structural alterations to their buildings that would require listed building consent</p>
<b>Band B - £500 including:-</b>	<p>Development comprising the extension or alteration of buildings, the construction of ten dwellings or fewer or non-residential development of less than 1000 sq m.</p> <p>The change of use of buildings resulting in equivalent accommodation or other development including the 'variation' of conditions or planning obligations</p>
<b>Band C - £1500 including:-</b>	<p>Developments in excess of ten dwellings or 1000 sq m of non-residential development where one meeting is required.</p> <p>Change of use of equivalent accommodation</p>
<b>Band D - £negotiable:-</b>	Larger or more complex Band B or C developments where a developer may wish to embark on a programme of meetings.

- 4.4 In addition to the proposed fee changes outlined in Table 1, it is also proposed to increase Building Control fees by 5% to reflect the increased costs of providing this service since these rates were last set in 2012.
- 4.5 A final area where Brentwood's planning fees need to be brought in line with many other boroughs relates to Section 106 monitoring fee charges. In order to manage and monitor all Section 106 agreements and spending, many local authorities charge a S106 administration fee. A common rate is a 5% charge on top of the total S106 contribution paid towards the costs of the development. It is important to note, however, that such a fee must be ring-fenced to the administration of the S106 fee and so cannot be spent on other planning or council services.
- 4.6 However, the High Court has just recently upheld a decision by an Inspector which held that such a charge was not legally justifiable. It is too early to say what the full implications of this decision on councils currently charging a percentage rate for S106 Monitoring fees will be. Importantly though, in the light of this very recent case law, it would not be advisable for the Council to introduce a flat rate S106 monitoring charge at present. Instead, it needs to consider standard clauses providing for cost recovery of specific fees for essential inspection and monitoring developments where inspection is necessary. Officers will therefore look at the options available with a view to introducing appropriate charges for site inspection and monitoring relating to this as soon as is practicable. Once agreed by the Head of Planning and the Chair of Planning and Development, these new fees will be instigated on subsequent s106 Agreements.

## **5. Reasons for Recommendation**

- 5.1 Brentwood Council's Planning Fees and Charges have not been reviewed since 2010 and so do not reflect the current costs of providing non-statutory planning services to developers. Neither do they consider the increasing budget constraints facing the public sector meaning that there is now a prerogative upon all Council services to generate income wherever possible to contribute to the provision of high quality services to residents and businesses.
- 5.2 The proposed review of the Planning Fees and Charges outlined in Section 4 of this report will better position Brentwood's Planning and Building Control services to meet the increasing needs for high quality, cost effective services. Given the interest shown by the development in developing in Brentwood over the coming years, alongside the opening of Crossrail services into London in

2018/19, it makes sense to ensure that the Council's fees and charges reflect this. The rates proposed are relatively high compared with neighbouring Essex council rates but are still modest in comparison with London boroughs. Given Brentwood's proximity to London's job markets and services and the fact that it more closely reflects the Capital's land values, it is reasonable to relate Brentwood's Planning and Building Control fees and charges to the levels in London.

- 5.3 However, it is important to acknowledge that any increased fee income resulting from the proposed increase in fees and charges is justified on the basis that the planning and building control services are delivered to a high standard. Such a high quality service requires appropriate funding to deliver the services that the higher fee paying developers will expect. The Council must provide value for money for the services it charges. It is therefore proposed that all planning and building control non – statutory fee income is ring-fenced to the Planning and Development service area in order to justify the charges and reassure developers that the service they are paying for will be delivered.
- 5.4 It is difficult to estimate the impact of the proposed changes to the Council's fee income for Planning and Building Control services as this very much depends upon the development industry's willingness to sign up to the proposed arrangements. However, as the proposed fee increases are mainly for medium and larger developments, and these developers are already used to paying similar rates to those proposed in Section 4, the industry is unlikely to resist the proposals provided that the service they receive provides value for money. On this basis, and assuming rates of development are similar to that in previous years, the Council could reasonably expect to generate an additional £50 000 in 2015/16 from its new Planning and Building Control fees and charges.

## **6. Consultation**

- 6.1 Discussions with staff have been held in the preparation of this report. Benchmarking against the fees and charges of other similar local authorities has also been undertaken.

## **7. References to Corporate Plan**

- 7.1 Proposals in this report support the Modern Council theme of the Corporate Plan in making efficiencies and savings, while improving service delivery to customers.

- 7.2 The planning service itself supports the Prosperous Borough theme by its promotion of quality development and growth.

## **8. Implications**

### **Financial Implications**

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- 8.1 If the proposed Planning and Building Control fees and charges are approved and introduced for 1 April 2015, the Council's fee income for planning services will could increase by £50 000 in 2015/16 based on previous levels of planning and building control service charges. If this income level were to be achieved for 2015/16, it would make a significant contribution towards the Council's budget deficit. It must be stressed, however, that this income cannot be guaranteed and is reliant on the development industry coming forward with development proposals and agreeing to pay the non statutory fees and charges proposed.

### **Legal Implications**

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The Local Government Act 1999 provides that the Council is under a general duty to "make arrangements to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness" Statutory Guidance, revised in September 2011, emphasises that authorities should engage service users and the wider community in consultation on options for the future and reshaping of the service.

Charges for discretionary services such as pre-application advice and planning performance agreements are allowed by the Local Government Act 2003.

The Government has published a consultation report on Section 106 Agreements to speed up S106 negotiations including amendments to guidance making clear that S106 negotiations should be part of pre-application discussions and should then conclude during the statutory determination periods. This will require co-ordination with other parties including especially Essex County Council but is entirely consistent with the several recommendations before the Council to improve and expand current practice. Standard documentation and clauses will need to be prepared and explained to assist applicants and developers with appropriate charges.

8.2 **Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

8.3 No other implications are identified.

9. **Background Papers**

9.1 Research of other Essex and east London boroughs' fees and charges rates

9.2 Section 106 Planning Obligations - speeding up negotiations. DCLG Consultation (closing date 19th March 2015)

10. **Appendices to this report**

None

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