

BROMSGROVE DISTRICT COUNCIL

CABINET

4 FEBRUARY 2009

BUILDING CONTROL – NEW SUPPLEMENTARY CHARGES

Responsible Portfolio Holder	Cllr J. Dyer
Responsible Head of Service	Mr. David Hammond
Non-Key Decision	

1. SUMMARY

- 1.1 The purpose of this report is to set out the case for introducing additional service charges and seek approval for levying such charges

2. RECOMMENDATION

- 2.1 The Cabinet is asked to approve the implementation of charges for building control services as follows: -
- 2.1.1 for retrospective Completion Certificates for archived applications as detailed in Appendix 1
 - 2.1.2 for processing the withdrawal of applications as detailed in Appendix 1
 - 2.1.3 for processing the transfer of obligations to a third party as detailed in Appendix 1.

3. BACKGROUND

- 3.1 The Building Control Section faces an increasing demand from prospective buyers and sellers for information/documentation relating to building work.
- 3.2 The main driver of this demand has been the introduction of Home Information Packs in July 2007, which requires amongst other things, evidence that any controlled building work carried out at a property offered for sale meets the requirements of the building regulations. This evidence is in the form of a building regulations completion certificate and/or approval notice (called 'authorised documents' in The Home Information Pack Regulations 2006). The legal right to a completion certificate was introduced into the Building Regulations on 1st July 1992.

- 3.3 In July 2002, the Law Society and Local Authorities revised the General Enquiries (Con 29) Form to include Building Regulation matters. The Con 29 form is designed to give relevant supplementary information that a Local Authority holds on a property as part of a request to search the Local Land Charges Register. This generates an increase in the number of requests from sellers and purchasers of property for completion certificates.
- 3.4 In response, the Council's Building Control service intends to introduce processes to systematically monitor controlled work under construction and implemented a practice of raising awareness with property owners on the importance of notifying the Council when building work is completed and obtaining a completion certificate after final inspection.
- 3.5 However, this process applies only to controlled work started after 1st January 2001 and some 400 applications remain open for which a completion certificate could be requested. A significant number of projects are completed without due notification to the Council. This represents a substantial, potential future demand on BDC Building Control for which a charge can and should be made, but which is not covered by the existing scale of fees and charges.
- 3.6 Legal entitlement to a completion certificate under the Building Regulations is subject to criteria set out in Regulation 17 (Completion Certificates) of the Building Regulations 2000. Where the Council does not receive notification within specified timescales that the building work had been completed, or that the building had been occupied before completion, the Council is not required by law to provide a Completion Certificate. On that basis, it is recommended that a charge is introduced for the provision of this service.
- 3.7 For those who do not wish to make use of this service, an option exists for vendors to purchase an indemnity agreement from insurance companies, protecting them from subsequent claims arising from not having obtained a completion certificate.
- 3.8 In addition to the demand for completion certificates, the number of requests to withdraw a Building Regulation Application and refund fees paid has steadily increased in recent times and there is currently no formally approved charging structure to cover the cost of administering these requests. The Building (Local Authority Charges) Regulations 1998 make no provision for the refund of fees when withdrawing applications deposited under the Building Regulations. Therefore, there is no legal bar to the levying of a fee for the withdrawal of applications and the refunding of fees and it is recommended that Members approve this proposal.

- 3.9 Another area which has seen an increase in demand is that of requests to redirect inspection fee invoices. The Building (Prescribed Fees Regulations) 1994 makes the person who carries out the work, or the person on who's behalf the work is carried out, legally responsible for payment of building control charges. This person must be identified at the time the application is deposited with the Local Authority and no provision is made for any subsequent transfer of obligation to a third party. On a practical level, who ultimately pays need not concern the Council, so long as it does not stand the cost of re-directing invoices. Accordingly, it is recommended that a service charge be introduced to cover these costs

4. FINANCIAL IMPLICATIONS

- 4.1 The financial pressures on the non-fee earning work of the Council's Building Control Service are steadily increasing. In this light, it is right and proper to make appropriate charges where possible for any work not subject to the requirement of the fee earning aspects of Building Control to be non-profit making or undertaken as a statutory duty on a non-chargable basis.
- 4.2 The cost of delivering these services will be met within existing resources

5. LEGAL IMPLICATIONS

- 5.1 The Provision of a Building Control Service is statutory under The Building Act 1984. The ability to charge fees for the service is given under The Building (Prescribed Fees) Regulations 1994.
- 5.2 The provision of supplementary fees is not covered by the above instruments and is a matter of discretion for the Council.

6. COUNCIL OBJECTIVES

- 6.1 The provision of a Building Control Service is closely linked to the Council Objective 4 Environment. This primary aim of the customer communication procedures to be introduced as part of this additional fee charging structure is to promote the improvement in statutory inspections on building projects. The raising of additional fee income is secondary.

7. RISK MANAGEMENT

- 7.1 The main risks associated with the details included in this report are:
- Potential customer complaints
 - Potential claims of invalid charging of fees

- 7.2 These risks are being managed as follows:

- Customer Complaints

Series of clear written communications with customer requesting action on their part. Communications to include Notice of potential supplementary fee.

Adoption of uniform archiving policy within service.

- Potential claims of invalid charging of fees

Formal publication of new fees alongside current fee structure. Issue of new fees with all application forms alongside existing fee structure.

7.3 Currently the risk identified in both of the bullet points in 7.1 are not addressed by any risk register and will be added to the Planning and Environment Services risk register as follows:

Action: Produce clear set of standard documents for the presentation to affected parties relating to outstanding statutory inspections and potential resultant fee charges. Document use of same within Uni-form IT system.

Action: Publish enhanced fees structures on council website and other outgoing media.

8. CUSTOMER IMPLICATIONS

8.1 The introduction of potential supplementary fees is designed to promote the increase in statutory inspections. It is considered that a rise in the number of completion inspections carried out under potential levy of further fees will have a significant benefit to the customer by virtue of increased checking of works on site. Many customers are unaware of the need to allow completion inspection by the Building Control Service.

8.2 Customers will be notified of the new supplementary fees via publication on the BDC website and by inclusion of the new fees in the hardcopy fee and application form packs currently issued.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 There are no direct equality or diversity implications.

10. VALUE FOR MONEY IMPLICATIONS

10.1 Customer satisfaction may potentially improve due to issuance of more Certificates of completion.

10.2 A new procedure would be introduced under the existing Building Control BSI accreditation for external inspection.

10.3 No further VFM implications arise.

11. OTHER IMPLICATIONS

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	No
Executive Director - Partnerships and Projects	No
Executive Director - Services	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	Yes
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All Wards

14. APPENDICES

Appendix 1 Schedule of Proposed Supplementary Fees.

15. BACKGROUND PAPERS

None.

CONTACT OFFICER

Name: Adrian Wyre
E Mail: a.wyre@bromsgrove.gov.uk
Tel: (01527) 881350

APPENDIX 1

Bromsgrove District Council Building Control – Supplementary Charges

If you are selling a property that has been extended or altered, you need to provide evidence to prospective purchasers that any relevant building work has been inspected and approved by a Building Control Body. That evidence is in the form of a Building Regulations Completion / Final Certificate and / or an Approval or Initial Notice (called the 'authorised documents' in the Home Information Pack Regulations).

Legal entitlement to a Completion Certificate is subject to conditions. In cases where the Council is not told that building work is completed, or the building is occupied without addressing outstanding Building Regulation matters, a certificate is not issued. Despite the best efforts of the Council's Building Control Surveyors, many home owners who undertake building works fail to obtain a Completion Certificate and their application is archived. A fee is payable to re-open archived building regulations applications for the purposes of issuing a completion certificate.

Other charges are payable where we are asked to withdraw a Building Regulations application and refund fees, or asked to re-direct inspection fee invoices. Fees are payable in cleared funds before the release of any authorised documents or other actions listed below.

DESCRIPTION	CHARGE (inc VAT at 15%)
ARCHIVED APPLICATIONS	
Process request to re-open archived building control file, resolve case and issue completion certificate	£57.50 administration fee
Each visit to site in connection with resolving archived building control cases	£57.50 per site visit
WITHDRAWN APPLICATIONS	
Process request	£35.00 administration fee
With additional fees of.....	
Withdraw Building Notice application where no inspections have taken place	refund submitted fee less admin fee
Withdraw Building Notice application where inspections have taken place	refund submitted fee less admin fee less £57.50 per site visit made
Withdrawn Full Plans application without plans being checked or any site inspections being made	refund submitted fee less admin fee
Withdraw Full Plans application after plan check but before any inspections on site	refund inspection fee (where paid up-front) less admin fee
Withdraw Full Plans application after plan check and after site inspections made	refund any paid inspection fee less admin fee, less £57.50 per site inspection made
RE-DIRECT INSPECTION FEES / ISSUE COPY DOCUMENTS	
Process request to re-invoice inspection fee to new addressee	£35.00 administration fee
Issue copy of previously issued completion certificate or Approval / Acceptance document	£10.00 plus 10pence per A4 sheet