

Brighton & Hove City Council

Policy and Resources Committee

Agenda Item 127

Subject: City Development and Regeneration
Building Regulations Application Fees

Date of meeting: 9th February 2023

Report of: Executive Director of Economy, Environment and Culture

Contact Officer: Name: various
Tel: various
Email: various

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 The Tourism, Equalities, Communities and Culture Committee (TECC) considered a report reviewing fees and charges for 2023/24 at its meeting on 12th January. The officer proposal for planning and building control fees recommended an uplift of 6%. Via an amendment, the TECC Committee agreed to propose an increase of 10% to the Policy and Resources Committee. This report provides advice to the Committee regarding the risks of increasing charges beyond the recommended 6%.

2. Recommendations

2.1 That Committee agrees that planning and building control fees for 2023 be increased by 6%.

2.2 That Committee agrees for this increase to then be implemented with immediate effect in the current financial year 2022/23 allowing for lead in time to update systems, charging methods and notice periods.

3. Context and background information

3.1 As part of the budget setting process, changes to fees and charges are agreed through relevant Committee meetings. The management of fees and charges is fundamental both to the financial performance of the City Council and the achievement of corporate priorities. The Council's Corporate Fees and Charges Policy requires that all fees and charges are reviewed at least annually. In addition, these should normally be increased in line with the cost of providing the service to maintain income in proportion to net cost.

3.2 The Corporate Fees & Charges Policy also stipulates that increases above or below a 'corporate rate of inflation' should be approved by committee. However, it should be noted that the corporate rate of inflation (3%) is not a

default rate of increase and is a financial planning assumption only, set early in the financial year. It should not therefore determine actual increases which should normally reflect current inflation rates and cost increases. This ensures that income is maintained in proportion to expenditure.

- 3.3` If proposed fees & charges recommended in the report are not agreed at the service committee, or if the committee wishes to amend the recommendations, then the item will normally need to be referred to the Policy & Resources Committee meeting to be considered as part of the overall budget proposals. This is because the draft and final budget proposals are developed on the assumption that fees and charges are agreed as recommended and any failure to agree, or a proposal to agree different fees and charges, may have an impact on the overall budget proposals, which means it would need to be dealt with by Policy & Resources Committee. However, this does not fetter the committee's ability to make alternative recommendations to Policy & Resources Committee.
- 3.4 The proposal to TECC was to increase the Planning (pre-application and planning performance agreement) and Building Control Fees by 6.0%. In terms of context, Building Control operates in competition with the private sector and works hard to deliver a quality professional service that maintains its market share.
- 3.5 At its meeting on 12th January, the Tourism, Equalities, Communities and Culture Committee resolved:
That Committee agrees to refer the proposed fees and charges in paragraphs 3.5–3.10 relating to Building Regulation Application fees, Pre-Application Planning Advice Service and Planning Performance Agreements to Policy & Resources Committee in order to consider increasing them by 10% rather than 6%, and for this to then be implemented with immediate effect in the current financial year 2022/23 allowing for lead in time to update systems, charging methods and notice periods.
- 3.6 Officers are concerned that a price increase of 10% is not viable and via this report provides advice to the Committee on the potential risks of increasing the charges beyond the recommended 6%.
- 3.7 Since 2017, the building control fee schedule (which is used to charge circa 90% of projects commissioned annually) has been subject to two fee reviews and above inflation increases agreed through the budget process. This has resulted in fee rates for the various types of projects increasing by 39% over the last 5 years; during which time inflation was running at circa 1 to 2% per annum.
- 3.8 The last fee review in 2019 benchmarked Brighton and Hove charges against five unitary councils (Bristol, Medway, Thurrock, Southampton & Southend) as their rates were deemed more comparable than the lower rates generally set by Sussex councils. The review identified that the service in Medway (which is a shared service serving 700,000 residents also in Gravesham, Canterbury and Swale) charged on average the highest fees in the cohort. The increases agreed through that 2019 process still set rates below those charged in Medway.
- 3.9 The proposed 10% fee increase recommended by TECC Committee has

been modelled against the comparable fee rates in Medway. This shows that the new fees would be circa 21% higher than their current charges. A small sample of frequently commissioned project types (extensions and conversions) has also been compared against fees in the London Borough of Wandsworth (population 330k), which shows that Brighton and Hove proposed new fees (with the 10% uplift) would be around 11% higher than their current charges.

- 3.10 As set out above, the council provides building control services in competition with the private sector. This was introduced by central government through the Building Act 1984 and there are currently around 80 firms operating nationally across England and Wales providing services in competition. The council still has to pay for the cost of some statutory services (e.g. the building control register of all projects notified, dangerous structures, demolition notices etc) through the General Fund.
- 3.11 Following the tragic Grenfell fire, the private sector is increasingly targeting smaller projects, due to the overheads attached to working on complex schemes with a high risk liability. Greater competition in the Brighton and Hove traditional market has seen the council's Building Control Service's estimated market share continue to decline (59%), which remains below the average for other Sussex councils (62%.) Commercial market intelligence in relation to the fees charged by the private sector is very difficult to reliably ascertain.
- 3.12 In order to deliver current budget aspirations, there is not currently a budget for sales and marketing for new business. The focus for business development is therefore on protecting the existing customer base (through good service delivery and client relationship management with the most active building firms), reacting to tender invites as a supplier for major developments and securing appointments on all council projects. However, the business plan for Building Control is kept under constant review, and officers will explore whether a spend to save proposition to develop a formal marketing strategy could strengthen demand and allow the team to raise prices by more in future years.
- 3.13 For these reasons, it is considered that a further increase in building control fees beyond 6% will undermine the competitiveness of the service and is likely to have an adverse impact on market share and potential income to the council. This is within the context of the overall size of the current development market also shrinking, due to post Covid impacts and the recession. This reduces the market opportunities for providing services on new, large and complex developments as well as fewer new projects in the householder improvement category. New planning applications for householder projects in the city have fallen by 20% in the first three quarters of 2022/23, partly as a result of the increase in interest rates.
- 3.14 Full details of the existing building control fees are set out on the council's website: [Building Regulations Application Fees 2022/23](#). This is the main route for promoting the service is where developers will seek out information on Building Control Fees and Charges.

- 3.14 The fees and charges proposal to TECC Committee was also to increase the fees for planning pre-application advice and planning performance agreements (PPA - a framework between the local planning authority and the applicant about the process for considering a major development proposal) by 6.0%. These services are optional and developers are not required to arrange an agreement with the local planning authority. This increase is required to fully recover costs associated with providing the service.
- 3.15 Officers believe that a 10% increase on planning (pre-app and PPA) will deter potential customers in the development sector going through recession and where central government has indicated it will mandate an increase to statutory planning application fees (date to be confirmed). Targets for achieving income against these areas are already challenging and will not be achieved in 2022-23. A further consequence of the sector not taking up pre-app advice, if they are deterred by high prices, is likely to be additional unpaid work for officers to resolve unsatisfactory proposals and increased appeals. It is in the interests of the council to set the pre-app and PPA fees at a reasonable level.
- 3.16 Full details of the existing planning pre-application advice fees are set out on the council's website: <https://www.brighton-hove.gov.uk/planning/planning-applications/pre-application-planning-advice-service>

4. Analysis and consideration of alternative options

- 4.1 The combined income budget in 2022/23 is £1.265m. An increase of 6% would generate an additional £0.038m, whilst a 10% increase would generate a theoretical additional £0.088m towards covering the costs of the services, on top of the increased income generated by the corporate inflation increase of 3% (£0.038m). However, there are concerns the building control fee increase will have an adverse impact on market share (due to cumulative increases in fees over recent years). The planning pre-app and PPA targets are not being met in 2022/23 and this position may worsen if fees are increased significantly.

5. Community engagement and consultation

- 5.1 There has been no community engagement and consultation on this report. However, there has been benchmarking work undertaken against comparator authorities.

6. Conclusion

- 6.1 As set out in paragraphs 3.6 to 3.16, officers consider that a fee increase of 10% carries a high level of risk and recommends the increase be limited to 6%.

7. Financial implications

- 7.1 For planning pre-application advice and PPAs an increase of 6% would generate an additional £0.010m whilst a 10% increase would generate a theoretical additional £0.023m towards covering the costs of the services, on top of the increased income generated by the corporate inflation increase of 3%. However, the service is already underachieving in fees against the current year's income target for planning pre-application advice and PPAs by approximately £0.120m. The advice from the service is that a 10% increase will have a negative impact and is likely to result in reduced demand for the service.
- 7.2 An increase of 6% in building control fees, where there is direct competition with private sector service providers, would generate an additional £0.028m whilst a 10% increase would generate a theoretical additional £0.065m and lead to a cumulative increase in fees of 39% across recent years. This service is also underachieving against budget in the current year by approximately £0.118m.
- 7.3 Agreeing the increase of 6% would meet the target already assumed in the general fund budget.

Name of finance officer consulted: Jill Scarfield Date consulted 31/01/2023:

8. Legal implications

- 8.1 Local planning authorities may charge for providing discretionary services under section 93 of the Local Government Act 2003. Where charges are made they must not exceed the cost of providing the service. The Building (Local Authority Charges) Regulations 2010 allow the Council to fix building control charges provided it has as its overriding objective the need to balance as nearly as possible the costs of the services provided with the income derived from those services.

Name of lawyer consulted: Alice Rowland Date consulted : 26/01/23

9. Equalities implications

- 9.1 Management of fees and charges is fundamental to the achievement of council priorities. The council's fees and charges policy aims to increase the proportion of costs met by the service user. Charges, where not set externally, are raised by corporate inflation rates unless there are legitimate anti-poverty considerations.

Sustainability implications

- 10.1 There are no direct sustainability implications arising from the recommendations in this report.

