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## DISCRETIONARY CHARGING FOR THE PLANNING SERVICE

Report by Chief Officer Place

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### 1 PURPOSE OF REPORT

- 1.1 The purpose of the report is to inform the Committee of The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022, which came into effect on 1 April 2022, and to seek approval for new Planning Service discretionary fees to be applied for services and a surcharge to be applied to retrospective planning applications.

### 2 BACKGROUND

- 2.1 The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022, which came into effect on 1 April 2022, increased the fees which were required in connection with planning applications and introduced the opportunity to apply discretionary charging for services provided by the planning authority.
- 2.2 At its meeting on 21 March 2023 the Council agreed to introduce discretionary charging for the Planning Service. The discretionary charging for the Planning and Building Services was estimated to generate £16,000 for 2023/24 (£10,000 of which will be from the Planning Service).
- 2.3 Since the 2022 Regulations were published, the majority of planning authorities across Scotland have been considering their position in terms of charging and many planning authorities have already introduced discretionary charging. In arriving at a level for discretionary charging a survey of the charges imposed across the country has been conducted and likely costs of the services provided by the planning authority have been calculated.
- 2.4 The Regulations require the preparation of a Planning Fees Charter. The Planning Fees Charter which has been prepared, is attached to this report as Appendix A, combines the statutory planning application fees, existing charges for various services and the proposed discretionary charging schedule. Based on the survey work the planning authority has conducted the proposed discretionary charging schedule is fair and proportionate and covers the areas set out in sections 3 of this report.

### **3 PLANNING FEES CHARTER**

#### Pre-Application Enquiries

- 3.1 The provision of pre-application advice is a valuable service allowing planners to identify the acceptability of a proposed development scheme at an early stage (potentially saving developers resource); identify the appropriate supporting information to front load a planning application; provide assurance to applicants; and, assist in reducing determination timescales. It is a service which the planning authority has provided free of charge for many years, effectively subsidising the development industry.
- 3.2 There is a risk that in introducing charges for pre-application enquiries results in some potential applicants no longer using this service. This could result in some applications taking longer to determine and even potentially more notices of refusal being issued. However, the status quo of not charging for this service is unsustainable and the fees have been set at such a level that they make up a very small proportion of the overall development costs.
- 3.3 The fees proposed for pre-application enquiry charging and the level of service provided is set out in the Planning Fees Charter. The level of charging has been set after survey work, including examining what other authorities are currently charging and based on the likely time an officer will need to dedicate to a particular case. The proposed fees represent a very small proportion of the overall development costs, but are high value.
- 3.4 The Planning Fees Charter also sets out what needs to be submitted with the pre-application enquiry and also the service standard that the planning authority will aim to provide.
- 3.5 The Planning Fees Charter also includes certain exceptions to pre-application charging which includes planning applications made by disabled people for alterations to their principal residence and applications made by community councils where the application is intended for community benefit. In addition, in an attempt to encourage discussion regarding proposals for carbon reducing/renewables technologies, such as solar panels, on domestic properties it is proposed to exempt those types of developments from pre-application charging, where they are the sole development proposal in the scheme.

#### Non-Material Variations

- 3.6 It is quite common for developers to request changes to development schemes which have been through the planning process and have been approved. In these cases the developer will request that the change to the scheme be considered as a non-material variation. The planning authority has, until now, dealt with these requests without requiring a fee – some changes can be progressed under this non-material variation route where as other more material changes will need a new planning application.

- 3.7 The Regulations provide that an authority may introduce a charge of £200 for each request for a non-material variation to a planning permission under Section 64 of the Town and Country Planning (Scotland) Act 1997. The Planning Fees Charter sets out that a charge of £200 is applied for requests for non-material variations as set in the Regulations.

#### Compliance with Conditions and Discharge of a Conditions

- 3.8 The Regulations state that an authority may introduce a fee of £100 to provide written confirmation that a condition or conditions within the same application have been complied with. It is therefore recommended that this fee of £100 is levied for requests to provide written confirmation that a condition has been complied with, as set in the Regulations. The fee would apply to each request made and can cover more than one planning condition on the same planning consent. Each separate request will attract a new fee.

#### Retrospective Application Surcharges

- 3.9 The Regulations allow the introduction of a surcharge for applications for planning permission where the application relates to development carried out without permission. This allows for a surcharge of up to 25% over and above the normal fee that would have been required for the development concerned.
- 3.10 It is recommended that a surcharge of 25% is applied to the fee for such applications submitted. This will be applied where the development has been completed and also where it has been started without the appropriate planning permission, but is not yet complete. It is hoped that the introduction of a surcharge will reduce the number of unauthorised developments that are carried out without the necessary planning permission.

#### Section 50 Licence Certificate

- 3.11 Many planning authorities already charge for this administration service, where a 'Planning Certificate' is provided to applicants applying for a licence to ensure all the appropriate planning permissions are in place. The minor £60 fee is proportionate and covers the planning authority's administration costs.

#### Other Charges in the Planning Fees Charter

- 3.12 A range of other, already existing, charges including fees for high hedge applications, advertising planning applications, monitoring planning obligations, property searches and issuing property enquiry certificates are set out in the Planning Fees Charter in the interests of completeness and clarity.

## **4 RESOURCE IMPLICATIONS**

- 4.1 The Planning Service spends a considerable amount of time processing pre-application enquiries, non-material variations and requests for written confirmation of compliance/discharge of conditions at no additional charge. Considering the financial context and current demand for this service there is a

need to take a commercial approach for introducing service charges for pre-application enquiries, non-material variations and requests for written confirmation of compliance/discharge of conditions.

- 4.2 In charging for the abovementioned services it will mean that customers will rightly expect a paid-for service. This may result in re-balancing resources to provide those services whilst processing planning applications and progressing the review of its local development plan. The planning authority will monitor planning application performance to see if the implementation of Planning Fees Charter impacts on other parts of the wider Planning Service.
- 4.3 The planning authority's back office systems and processes will need to be updated to allow for the implementation of the Planning Fees Charter, if approved. The Planning Fees Charter will need to be made available on the Council's website.

## 5 **RECOMMENDATION**

- 5.1 The Committee is recommended to approve the Planning Fees Charter.

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**Background Papers:** The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022; and Planning Circular 2/2022 The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022

## Planning Fees Charter

The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022 set out the level of fees required as part of the submission of planning applications and other associated applications.

These Regulations replace the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004. They also introduce some additional categories of payment and enable the planning authority to charge discretionary fees for some services, to reduce or waive fees in certain cases and to apply a surcharge for retrospective applications. The Regulations require us, as planning authority, to set out what we will charge for these services, when and by how much fees will be reduced and clarify the level of surcharges applied. This information is set out below.

Planning applications and associated submissions will not be considered 'valid' until the fee has been received in full. Fees will be checked at the final point of validation, rather than the point of submission, as changes during the validation process can affect fees payable. Planning applications, discretionary service requests and associated submissions may be returned if the required fee is not received within five working days of the submission being lodged.

### Ways to Pay

Cheque – Please make cheques payable to 'Midlothian Council' and write the application reference number (\*\*/\*\*\*\*\*/\*\*\*), or the address of the application site and 'planning application' or 'pre-application enquiry' on the back of the cheque.

Card – Please call (0131) 271 3147. If paying by card please ensure you also provide us with the planning application reference number and the site address. Please note this telephone line is only staffed on a Monday, Wednesday or Friday.

BACS - Sort code: 83-17-26 Account number: 00128568 Once a payment is made please email [revenues.cash.collection@midlothian.gov.uk](mailto:revenues.cash.collection@midlothian.gov.uk) with confirmation of the planning application reference number, cash amount and the customer/company name. Please copy [dutyplanningofficer@midlothian.gov.uk](mailto:dutyplanningofficer@midlothian.gov.uk) into the email.

## Fees for Planning Applications

The fees associated with the submission of planning applications are set out in The Town and Country (Fees for Applications) (Scotland) Regulations 2022 (or subsequent amendments) and can be found via:

[The Town and Country Planning \(Fees for Applications\) \(Scotland\) Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

## Pre-Application Advice Charging

Below is the scale of fees related to pre-application enquiries:

Category	Definition	Charge	Standard Service Level	Additional service options	Required information
Householder (including change of use of land to private garden ground); and advertisement and signage proposals		£80 + VAT (£96)	Unaccompanied site visit to the site by the case officer; consultation with relevant internal consultees; and a written response provided within 30 working days based on the information provided, unless an alternative timescale is agreed.		<ul style="list-style-type: none"> <li>• Completed pre-application form</li> <li>• Location plan with red line;</li> <li>• Block plan existing and proposed;</li> <li>• Existing/proposed elevations;</li> <li>• Existing/proposed floor plans;</li> <li>• Draft outline design/access statement.</li> </ul> <p>* all drawings to be provided at a scale to show the extent of the proposed development.</p>
Small Local Scale development	<ul style="list-style-type: none"> <li>• 1 to 10 residential units;</li> <li>• Up to 999 sqm of gross floor space;</li> </ul>	£150 + VAT (£180)	Unaccompanied site visit to the site by the case officer; consultation with relevant consultees;		<ul style="list-style-type: none"> <li>• Completed pre-application form</li> <li>• Location plan with red line;</li> <li>• Block plan existing and proposed;</li> </ul>

	<ul style="list-style-type: none"> <li>• Agricultural buildings;</li> <li>• Glasshouses and polytunnels</li> <li>• Other development sites up to 0.49ha.</li> </ul>		and a written response provided within 30 working days based on the information provided, unless an alternative timescale is agreed.		<ul style="list-style-type: none"> <li>• Existing/proposed elevations;</li> <li>• Existing/proposed floor plans;</li> <li>• Draft outline design/access statement.</li> </ul> <p>* all drawings to be provided at a scale to show the extent of the proposed development.</p>
Larger Local Scale	<ul style="list-style-type: none"> <li>• 11 to 49 residential units;</li> <li>• Between 1000 sqm and 9999 sqm of gross floor space;</li> <li>• Other development sites above 0.5ha but below major scale development.</li> </ul>	£500 + VAT (£600)	Unaccompanied site visit to the site by the case officer; consultation with relevant consultees; and a written response provided within 35 working days based on the information provided, unless an alternative timescale is agreed.		<ul style="list-style-type: none"> <li>• Completed pre-application form</li> <li>• Location plan with red line;</li> <li>• Block plan existing and proposed;</li> <li>• Existing/proposed elevations;</li> <li>• Existing/proposed floor plans;</li> <li>• Draft outline design/access statement.</li> </ul> <p>* all drawings to be provided at a scale to show the extent of the proposed development.</p>
Major Scale	Major scale development as set out in The Town and Country Planning (Hierarchy of Developments)(Scotland) Regulations 2009	£1200 + VAT (£1440)	Unaccompanied site visit to the site by the case officer; consultation with relevant consultees; and a written response provided within 35 working days based on the information provided,	Up to two meetings with case officer £500; £200 for each meeting after the first two.	<ul style="list-style-type: none"> <li>• Completed pre-application form</li> <li>• Location plan with red line;</li> <li>• Block plan existing and proposed;</li> <li>• Existing/proposed elevations;</li> <li>• Existing/proposed floor plans;</li> <li>• Draft outline design/access statement.</li> </ul>

			unless an alternative timescale is agreed.		* all drawings to be provided at a scale to show the extent of the proposed development.
Listed Buildings	Proposals for alterations to listed buildings not covered by the categories above.	£80 + VAT (£96)	Unaccompanied site visit to the site by the case officer (access may be required); consultation with relevant consultees; and a written response provided within 30 working days based on the information provided, unless an alternative timescale is agreed.		<ul style="list-style-type: none"> <li>• Completed pre-application form</li> <li>• Location plan with red line;</li> <li>• Block plan existing and proposed;</li> <li>• Existing/proposed elevations;</li> <li>• Existing/proposed floor plans;</li> <li>• Draft outline design/access statement.</li> </ul> <p>* all drawings to be provided at a scale to show the extent of the proposed development.</p>
Section 75 modifications		£80 + VAT (£96)	Consultation with relevant consultees; and a written response provided within 35 working days based on the information provided, unless an alternative timescale is agreed.		<ul style="list-style-type: none"> <li>• Completed pre-application enquiry form.</li> </ul>

## **Exemptions from the above Pre-Application Enquiry Charging**

Pre-application enquiries to alter or extend an existing dwellinghouse, or to carry out operations within the curtilage of an existing dwellinghouse, are exempt from payment of a fee if the planning authority is satisfied that the proposed development is intended to improve access, safety, health or comfort for a disabled person who is living in the house as their principal residence.

Community Councils - pre-application enquiries from a community council are exempt from payment of a fee if the planning authority is satisfied that the proposed development is intended solely for community benefit.

Pre-application enquiries for local scale renewable energy projects are exempt. This exemption does not apply if the proposals form part of a wider development proposal.

Pre-application enquiries that are part of a collective or wider Planning Service funding arrangement are exempt – the Planning Service can advise applicants if their proposal falls within this exemption.

Do I need planning permission enquiries are not classed as pre-application enquiries and are therefore exempt.

## **Non-Material Variations**

A fee of £200 for each request for a non-material variation to a planning permission under Section 64 of the Town and Country Planning (Scotland) Act 1997.

## **Condition Compliance Fee (excludes AMSC applications relating to planning permission in principle)**

A fee of £100 to provide written confirmation that a condition has been complied with. An applicant may wish to seek written confirmation of compliance with more than one condition pertaining to the same application within a submitted request, which will result in a single fee of £100 being payable. Each subsequent written confirmation request pertaining to the same application will attract a further fee of £100. Where an enquiry relates to a householder development, which would benefit from planning application fee exemption under Reg 7 (means of access, etc. for disabled persons) it will be exempt from this fee.

Requests that are part of a collective or wider Planning Service funding arrangement are exempt – the Planning Service can advise applicants if their proposal falls within this exemption.

### **Discharge of Conditions (excludes AMSC applications relating to planning permission in principle)**

A fee of £100 to provide written confirmation that a condition can be discharged. Applicants will require to seek written confirmation of the discharge of conditions related to a grant of planning permission or other form of consent. Each submitted request will result in a single fee of £100 being payable. Each subsequent written request pertaining to the same application will attract a further fee of £100. Where a request relates to a householder development, which would benefit from planning application fee exemption under Reg 7 (means of access, etc. for disabled persons) it will be exempt from this fee.

Requests that are part of a collective or wider Planning Service funding arrangement are exempt – the Planning Service can advise applicants if their proposal falls within this exemption.

### **Retrospective Applications Surcharge**

A surcharge will be applied to applications for planning permission where the application relates to development carried out or commenced without permission (Section 33 of the Town and Country Planning (Scotland) Act 1997). The surcharge will be applied both where development is complete, and where development has commenced but has not yet been completed. The fee shall be calculated for the development in accordance with the Regulations and then a surcharge of 25% will be added. (If an officer of the Planning Authority sees that development has commenced on a development while conducting a site visit the application will be made invalid until the additional fee is paid).

### **High Hedge Applications**

High Hedge applications attract a fee of £300. However, the difference between cost of work involved in assessment and the £300 fee will be refunded if less than £300. Please note that there is no pre-application advice service in relation to High Hedge applications.

### **Charge for Advertising a (non-EIA) Application**

Where applications have to be advertised in the local press on account of neighbour notification, bad neighbour development or potential departure from the development plan a charge of £80 will be required to cover the planning authority's costs. The application will not be determined until the advert fee has been settled.

### **Charge for Advertising an EIA Application**

The advert fee for EIA applications is calculated based on the space required in the newspaper.

### **Section 50 Licence Applications/Certificate**

A section 50 license application fee will be set at £60.

### **Property Search**

A property search fee will be set at £60.

### **Property Enquiry Certificate**

A property enquiry certificate fee will be set at £116.

## Monitoring Planning Obligations

Council agreed in 2016 that the planning authority would charge for monitoring obligations.

Charges for the monitoring and management of Planning Obligations are as follows:

<b>Form of Development</b>	<b>Charge</b>
Householder applications or local applications relating to the erection of a single dwellinghouse.	£105+VAT (=£126)
Local developments relating to more than a single dwellinghouse where the planning obligation relates only to the payment of financial contributions.	£525+VAT (=£630)
Local developments where the planning obligation relates to the payment of financial contributions and the provision of affordable housing and/or other infrastructure.	£1050+VAT (=£1260)
Major development where the planning obligation relates only to the payment of financial contributions	£1575+VAT (=£1890)
Major developments where the planning obligation relates to the payment of financial contributions and the provision of affordable housing and/or other infrastructure.	£2100+VAT (=£2520)
National and Major developments where the planning obligation relates to the payment of financial contributions and the provision of affordable housing and/or other infrastructure over a period of 10 years or more.	£5250+VAT (=£6350)