

# AGENDA ITEM 9

## RURAL, ECONOMIC AND ENVIRONMENTAL AFFAIRS COMMITTEE

9<sup>th</sup> MARCH 2016

### REPORT OF HEAD OF REGULATORY SERVICES

#### EXTENDING THE SCOPE OF BUILDING CONTROL CHARGES

##### 1.0 PURPOSE OF REPORT

- 1.1 To consider the introduction of charges for the following areas of work carried out by our Building Control team:
- Applications for demolitions
  - Completion certificate copy requests
  - Applications for street naming and numbering

##### 2.0 RECOMMENDATIONS

- 2.1 **That the Committee authorises the introduction of charges for demolition applications, completion certificate copy requests and street naming and numbering amendments on the basis set out in paras. 3.4, 3.9 and 3.10 below**

##### 3.0 KEY ISSUES

###### 3.1 Applications for demolitions

- 3.1.1. Demolition of buildings is governed by s 80 and 81 of The Building Act which requires owners intending demolition to serve Notice of this intent on the Council, and the opportunity for a 'counter notice' to be served specifying requirements of the works, such as sealing services, weatherproofing of exposed walls and removal of rubble etc. The Act makes no provision for charging for the submission of a s80 notification of intention to carry out demolition work or for the counter service of a s81 notice. The Local Authority cannot charge for meeting its statutory obligations but can charge for additional services that are provided with the clients' consent or at their request.
- 3.1.2 However, if the client requires written confirmation that the works have been completed in compliance with the Section 81 notice, there is no statutory requirement for that service. Further, site checks and further office work would be needed to fulfil that request. Therefore, a charge can be made for that element of the work.
- 3.1.3 Where a service beyond a simple letter to neighbours is required, the Authority would incur additional costs. Thus, if the client wanted the local authority to carry out a more involved notification or consultation with the neighbours around a proposed demolition site, this could be done but at a cost. This cost could be recovered from the applicant with their consent.
- 3.1.4 It is recommended that we continue to provide this statutory service without charging but if we are asked to act beyond our obligations we recover our costs at the applicable hourly rate of £70.47 + VAT. The hourly rate is derived from a detailed analysis of the time required to carry out the Building Control service. The background to this is a calculation, taking into account staff time, transport costs, and applicable overheads, which is then aggregated to create an hourly rate.

## **3.2 Completion certificate copy requests**

- 3.2.1 Where the Council receives a request for information about a property, the Environmental Information Regulations apply and, in common with the Freedom of Information Act, that information must be given. The requirement is subject to the exemptions in the FOIA and the personal details safeguards in the Data Protection Act.
- 3.2.2. The additional work could be research on databases, in leather bound ledgers etc. where that data is also available in the public realm. If the information is in the public realm, the enquirer can do the research for themselves and should not expect the Local Authority to do it for them. Thus, if they want the work done for them, the Local Authority can charge under Section 4(3) Localism Act 2011.
- 3.2.3 An additional service can also be time related. It is often the case that information is required on an urgent basis, sooner than our normal service would provide.. The “additional service” would then be one where “fast tracking” attracts the additional charge. The FOIA and EIR allow a number of weeks for the LA to respond (20 working days). If the enquirer wants the information sooner than prescribed in the legislation and is prepared to pay for that additional enhanced service, there is scope to make a charge. It is crucial that the customer is aware of the charge and why they are paying it. Reasonable charges can also be applied for the process of recovering the documents from an archive and for photocopying documents.
- 3.2.4 It is our recommendation that a charge is made to reflect up to half an hour’s time. The current hourly rate is £70.47 so the charge would be £35.24 + VAT (£42.29)

## **3.3 Applications for street naming and numbering**

- 3.3.1 Melton Borough Council carries out its street naming and numbering functions under the provisions of the Town Improvement Clauses Act 1857 and the Public Health Act 1925. As these functions are not mandatory under statute MBC is able to apply charges as a discretionary service under Section 93
- 3.3.2 The primary benefit of the Section 93 Local Government Act 2003 charging power is that it gives local authorities certainty in relation to charging that did not exist before 2003 and a greater freedom to charge for discretionary services. Although section 93 cannot be used to generate a profit, it does enable a local authority to spread the cost of providing an existing service or a new discretionary service, whereas previously (if the power to charge was available) the whole cost of providing the service would have fallen on the local authority.

## **4.0 POLICY AND CORPORATE IMPLICATIONS**

- 4.1 Members will recall that a significant review of charges was undertaken in 2013. This was influenced by the Deloitte report into the level of charges that highlighted the need for Councils to maximise the recovery of expenditure from charges and levies, within the scope of the authority permitted, in view of other constraints on finances, i.e. that Council Tax could no longer be used to subsidise expenditure where scope existed to recover costs of the service concerned

## **5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

- 5.1 These have been addressed in section 3. It is estimated that the charges may accrue an aggregate sum of up to £5000 (based on the last 12 months street naming and numbering)

## **6.0 LEGAL IMPLICATIONS/POWERS**

6.1 Section 4(3) Localism Act 2011 and Section 93 Local Government Act 2003 allow for, under certain circumstances. Additional charges can be justified under the Re-Use of Public Information Regulations 2005, the Localism Act 2011 and the Local Government Act 2003. This legislation makes it possible to charge for some work carried out for companies or individuals. Charges can be made only for the work required to compile the information and not the information itself. Further, the work must be such that it is more than the base minimum that the FOI Act or EIR require.

**7.0 COMMUNITY SAFETY**

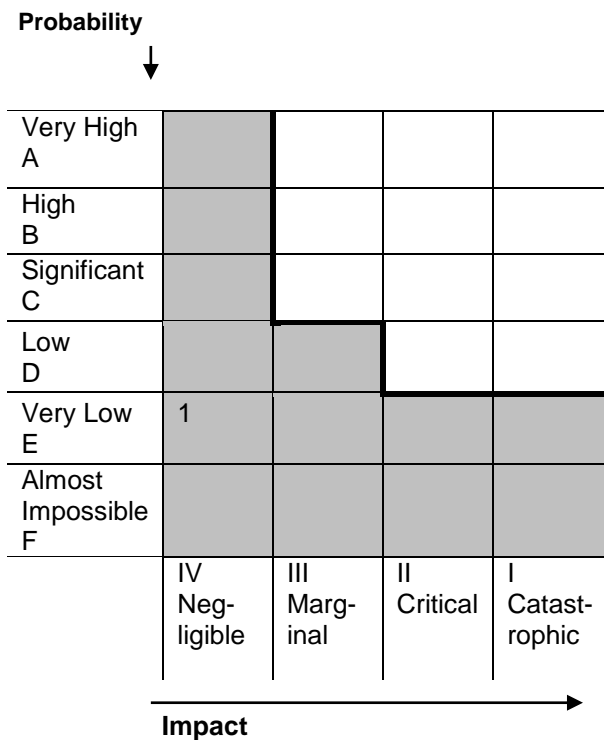
7.1 None

**8.0 EQUALITIES**

8.1 None

**9.0 RISKS**

9.1



Risk No.	Description
1	Fees do not generate any income

**10.0 CLIMATE CHANGE**

10.1 No Climate Change issues have been identified.

**11.0 CONSULTATION**

11.1 No consultation has taken place in respect of this report

**12.0 WARDS AFFECTED**

## 12.1 This report affects all wards

Contact Officer            J Barlow, Lead Professional: Building Control  
Date:                         1<sup>st</sup> March 2016

Appendices :

Background Papers:    None

Reference :                X : Committees\?