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**REPORT TO: CORPORATE COMMITTEE ON 14 JUNE 2022**

**SUBJECT: DISCRETIONARY CHARGING – PLANNING FEES**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)**

**1. REASON FOR REPORT**

- 1.1** To inform the Committee of The Town and Country Planning (Fees for Applications (Scotland) Regulations 2022 coming into force 1 April 2022 and to seek authorisation for new discretionary fees to be applied for services and surcharges to be applied to retrospective planning applications.
- 1.2** This report is submitted to Committee in terms of Section III (B) (1) of the Council's Scheme of Administration relating to financial policy and setting of charges.

**2. RECOMMENDATION**

- 2.1 It is recommended that the Committee agree:**
- i) the discretionary charges for providing pre-application written advice, non-material variations and considering a request for written confirmation of compliance/discharge of conditions and exemptions as set out in Appendix 1 to come into effect on 20 June 2022; and**
  - ii) a surcharge of 25% to be imposed on all retrospective planning applications to come into effect from 1 October 2022.**

**3. BACKGROUND**

- 3.1** 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 enabling 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.

- 3.2 The Regulations requires 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.
- 3.3 The increase in planning fees came into effect on 1 April 2022 and are welcomed in supporting a well-resourced and efficient planning service.
- 3.4 Planning fees for a single house have increased from £401 to £600 and householder applications have increased from £202 to £300. The most significant increase relates to the category of electricity generation where the maximum fee has been increased from £125,000 to £150,000.
- 3.5 The planning fee regulations for the first time include new sections on discretion to charge fees, waiving or reducing of fees and surcharges on retrospective planning applications. The majority of Local Planning Authorities across Scotland have already been charging for preliminary enquiries and non-material variations services. Moray has been charging since 2017 and the current level of fees are set out in **Appendix 2**.

#### **4. PROPOSALS**

##### **Pre-application enquiries**

- 4.1 The provision of pre-application enquiry advice is fundamental to identify the appropriate supporting information to front load a planning application and assist in reducing determination timescales. Since the fees were introduced there has been a reduction in speculative enquiries which has allowed resources to be more focused on enquiries that are likely to come forward into a planning application. For the period 2021/22 92 pre-application enquiries were submitted and this has brought in income of £33,207. The levels of these charges have been the subject of review and still considered to reflect the staff resources that required to provide responses. The fees table is set out in **Appendix 1**.

##### **Non-material Variations**

- 4.2 Charges for Non-material variations have been in operation since 2019. In 2021/22 86 non-material variations were submitted with income of £8,623.50. The current fee charges are set out at **Appendix 2** and are on a sliding scale depending on development type i.e. householder (£53), local (£105) and major (£263). The fee regulations set out a flat fee of £200 for each request and it is proposed to amend our current fees for all development types in line with the level set out in the regulations.

##### **Written confirmation of compliance with condition and discharge of a condition**

- 4.3 The written confirmation of compliance with a condition and discharge of a Planning condition currently attracts no fee. In 2022/22 195 individual written requests were received to with confirm compliance with or discharge a planning condition. The fee regulations states that "where a request is made to a planning authority for written confirmation of compliance with a condition imposed on the grant of planning permission the fee payable to that planning authority is £100 for each request". It is therefore recommended that this fee is applied to each separate request made from 1 April 2022 as there is significant work involved in discharging and confirming compliance with

planning conditions. The fee would apply to each request made and could cover more than one planning condition on the same planning consent. Each separate request will attract a new fee. Planning fee regulations waive fees in full as an exemption under Regulation 7 (means of access, etc. for disabled persons) and under Schedule 1, art 7 community councils benefit for a 50% fee reduction on planning applications. It is proposed to apply the same reductions to fees relating to discharge and compliance with condition fees.

#### **Waiving or reducing of fees**

- 4.4 Currently there are no fees payable on any discretionary charges for community developments (not for profit enterprise or a social enterprise), community councils, works or alterations to improve access, safety, health or comfort for a disabled person at their home and where a proposal is within a town centre to support economic recovery. It is proposed to extend this to cover developments that support the Councils' Food Growing Strategy such as allotments. The Fee Charter will be updated to include a reference to all statutory and discretionary charges that are agreed.

#### **Surcharges**

- 4.5 The new fee regulations also allow surcharges to be applied to retrospective applications to a maximum of 25% of the original planning application fee. Many retrospective applications are made once all the development is complete and others when the development has been started but not completed. In circumstances where work has started but not completed and may include a revised design or a previously granted planning permission these planning applications shall also attract a surcharge of 25%. The introduction of a surcharge is hoped to reduce the number of unauthorised developments that are carried out without the necessary planning permission.

### **5. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The Corporate Plan priorities are to promote economic development and growth and maintain and promote Moray's landscape and biodiversity and work towards a financially stable council that provides valued services to our Communities.

**(b) Policy and Legal**

None.

**(c) Financial implications**

The proposed charges are set out in **Appendix 1** and represent a reasonable estimation of cost in relation to processing these requests.

**(d) Risk Implications**

None.

**(e) Staffing Implications**

None.

**(f) Property**

None.

**(g) Equalities/Socio Economic Impact**

None, however as noted in section 4 certain fees related to applications for disabled adaptations and certain community facilities are waived or discounted providing a positive benefit.

**(h) Climate Change and Biodiversity Impacts**

None.

**(i) Consultations**

Depute Chief Executive (Economy, Environment & Finance), Head of Economic Growth & Development, the Legal Service Manager, the Strategic Planning & Development Manager, The Transportation Manager, the Consultancy Manager, the Environmental & Trading Standards Manager, the Equal Opportunities Officer, Paul Conner (Principal Accountant), Democratic Services Manager and Lindsey Robinson (Committee Services Officer) have been consulted and comments received have been incorporated into the report.

**6. CONCLUSION**

- 6.1 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. The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022 came into force 1 April 2022 and the Committee is asked to agree the charges as detailed in the recommendations and set out in Appendix 1.**

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Background Papers:

Ref:

[SPMAN-813460984-208](#)

[SPMAN-813460984-211](#)

[SPMAN-813460984-210](#)