

CHESHIRE EAST COUNCIL

Cabinet Member for Open Spaces

Date of Meeting:	18 April 2016
Report:	Public Rights of Way Manager
Subject/Title:	Public Rights of Way Fees for Consultations with Developers: Impact of Development and Economic Activity.

1.0 Report Summary

- 1.1 As part of the Council's delivery on the prosperity agenda, there are occasions, outside of the pre-application process, when developers will seek the input of the Public Rights of Way team in attending meetings and site visits associated with developments. This paper seeks to identify areas of work associated with such planning and development delivery to ensure as far as possible that costs are recovered.

2.0 Recommendations

- 2.1 To approve a charging scheme for services delivered by the Public Rights of Way team associated with developments affecting public rights of way
- 2.2 The fee for 2016/2017 will be £45 per hour per officer plus travel costs.

3.0 Reasons for Recommendations

- 3.1 The Public Rights of Way (PROW) team performs some functions as statutory duties and others as discretionary powers. Some of those functions can be fee chargeable and some are not. Those functions that can be fee chargeable should ensure as far as possible that costs are recovered to reduce the overall service delivery costs to the Council.
- 3.2 The PROW team, as an arm of the Highway Authority, is a statutory consultee on planning applications and is obliged to respond to consultations put to it by the local planning authority. The extent of that obligation is simply to identify any public rights of way that may be affected by the proposed development and highlight the requirements upon the developer to protect the public right of way during the development process.
- 3.3 However it is often the case that to provide a more responsive and holistic service, PROW officers are called upon to advise developers over mitigating

the impact of development on the PROW network and the most effective means of changing the network to accommodate the development. Intervention by PROW officers at this stage of the development process can also significantly reduce the risk to developers associated with sustained objections. These consultations also allow the PROW team to maximise the opportunities to enhance the network in the interests of the residents of Cheshire East.

4.0 Wards Affected

4.1 All.

5.0 Local Ward Members

5.1 All.

6.0 Policy Implications

6.1 None.

7.0 Implications for Rural Communities

7.1 None.

8.0 Financial Implications

8.1 The proposal will allow the Public Rights of Way team to recover specified costs and is in line with the Council's corporate Charging and Trading Strategy.

9.0 Legal Implications

9.1 Fees charged would be made under the Local Government Act 2003 S93 which provides powers for all local authorities to levy charges for 'discretionary services'. That is, the authority is authorised but not required to provide the services and it may set charges as it thinks fit and may, in particular, charge only some persons for providing a service and charge different persons different amounts for the provision of a service. Furthermore a local authority must only recover costs and has a duty to ensure that when one financial year is set against another the income from charges does not exceed the costs of provision.

10.0 Risk Management

10.1 There would be a significant impact on the development and planning processes if the Council ceased being involved in requests to attend

meetings. Additionally there would be significant reputational damage. Therefore it is not believed to be in the Council's interests to reduce or cease these discretionary elements of Public Rights of Way work.

- 10.2 If the Council continued to respond to requests to attend meetings as at present on a no fee basis there would be an increasing drain on staff resources that was not recouped by income.
- 10.3 In forecasting a new income stream as a potential saving we must bear in mind that this is an untried estimate and as always with income, is dependent on the market at any particular moment. Furthermore the current PROW revenue budgets would not be able to support the saving if the income stream failed without sustaining very significant performance impacts.

11.0 Background and Options

- 11.1 The circumstances affecting the varying categories of workload have changed significantly in response to the increased amount of development and economic activity that is occurring in Cheshire East when based on averages over the five year period 2009/10 to 2013/14. Planning application consultations have increased by 120% and requests for pre- and post- planning consent meetings and consultations have increased in a similar proportion. Thus there is significant demand for this service which can be both in response to demands from the development sector or in support of the Council's growth and prosperity agenda.
- 11.3 Fees should be charged for any additional specialist Public Rights of Way advice or to attend case conferences over and above the initial consultation request for planning applications and furthermore fees should be charged to developers for staff time responding to requests for meetings associated with development on a similar cost basis to the charges imposed by other Council services.
- 11.4 It is noted that fees for involvement in meetings with developers and planners are already levied by Highways and are being developed by Environmental Health and a proposed fee level has been established in discussions with officers from those services. The PROW team already benchmark some fees to those of Highways and it is proposed that this schedule of fees will be benchmarked in a similar way. In setting the proposed fees officers have taken account of actual costs and benchmarked with other services and the intention is to charge similar fees plus an element for travel as meetings are requested to be on site.
- 11.5 Thus the fee for 2016/2017 will be £45 per hour per officer plus travel costs.
- 11.6 The fees will continue to be benchmarked against the charges levied by Highways at annual reviews in future years and any proposed changes as a

consequence of this will be submitted to the portfolio holder for authorisation.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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