

Committee: DEVELOPMENT CONTROL
Date: 25 July 2007
Title: PUBLIC RIGHTS OR WAY ORDERS
REVIEW OF CHARGES
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Agenda Item

6

Item for
decision

Summary

This report reviews the charging policy for rights of way orders and recommends that the administration charge be increased.

Recommendations.

- 1 The fees for public path diversion/extinguishment orders be increased to £600 (£100 for each additional path) plus the cost of advertising.
- 2 The authority maintain the discretion to waive or reduce the fees in appropriate cases

Background Papers

Analysis of processes involved in making an order.

Impact

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|----------------------------|---|
| Communication/Consultation | The council's web site and application forms will be updated with the new charges. |
| Community Safety | None |
| Equalities | The Council needs to be aware of the differing financial circumstances of applicants |
| Finance | The fee income will be increased by £4000 per annum. This is based on 10 applications being received (based on past figures of applications received: 11 in 2004, 9 in 2005, 20 in 2006) |
| Human Rights | None |
| Legal implications | The regulations (DOE Circulars 3/1993 and |

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| | 11/1996) state that the charges should not exceed the costs actually incurred. Charges can be waived if the proposal is beneficial to the wider community or in cases of hardship. |
| Sustainability | None |
| Ward-specific impacts | The proposal will affect the whole district |
| Workforce/Workplace | There will be no increase in the amount of resources required. |

Situation

- 1 This report has come to members following the report to Annual Council that identified that increasing the fees for rights of way orders could assist in achieving savings targets.
- 2 The Council makes orders to divert/extinguish footpaths and bridleways in the following circumstances
 - under the Planning Act 1990 - when it is necessary to implement a planning permission, for example large housing developments.
 - under the Highways Act 1980 - in the interests of the owner of the land, for example a farmer changing field layouts or an individual diverting a path away from a domestic garden
- 3 The Act gives a discretionary power to local authorities to recover costs from owners or occupiers of the land if the proposal is in their interest. These costs can include administration, advertising and the cost of setting out the path.
- 4 The Council current charges are as follows. These have not been reviewed for over 5 years:-
 - £200 admin charge
 - The applicant pays the cost of advertising (approx £500-£600 depending on the size of the notice).
 - The applicant also pays any costs involved in setting out the path.
- 5 An analysis of the processes involved in making an order has been carried out and the costs calculated based on an hourly rate. For a straightforward order involving one path the admin cost to the council would be in the region of £600. When there is more than one path involved, the order making process is more complicated and it is considered that the fees should reflect the additional time taken.
- 6 Below is a table of the charges made by neighbouring authorities. It can be seen that in some cases the charges levied are greater than those proposed for Uttlesford. However, it is important to note that Uttlesford is not a

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highway authority, and therefore is not responsible for inspecting and accessing the proposal or for setting out the routes on the ground. These aspects constitute a significant proportion of the costs. Essex County Council works in partnership with Uttlesford and is happy to accept these costs as it does not have the staff resources to undertake the whole order process.

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| ▪ Braintree | ▪ Only planning Act ▪ £480 admin plus advertising |
| ▪ Babergh | ▪ £900 admin plus £131 for an additional path ▪ Plus advertising |
| ▪ Cambridge CC | ▪ Approx £925 (£25 per hour) plus advertising ▪ |
| ▪ Forest Heath DC | ▪ No Charge ▪ |
| ▪ Herts CC | ▪ Initial deposit £70. Between £3,000 and £5,000 including advertising |
| ▪ Mid Suffolk District | ▪ £1500 plus advertising. ▪ |
| ▪ Suffolk Coastal ▪ | ▪ £1500 including advertising |

Conclusion

7 It is suggested that the administration fee be increased to £600 with £100 for each additional path. If the application does not proceed to the making of an order £500 will be refunded.

Risk Analysis

| Risk | Likelihood | Impact | Mitigating actions |
|--|------------|---|--|
| Applicants unwilling to pay the increased fee | Low | Enforcement action taken by Highway Authority | Reduce fee if circumstances warrant this |
| If the charges are not increased the Council will fund individual applications | medium | The costs will significantly exceed income | Costs subsidised by the General Fund |