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To: Communities Cabinet Committee – 18 September 2013

Decision No: 13/00069

Subject: Fees to be charged in respect of applications made under the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013

Classification: Unrestricted

Future Pathway of Paper: Cabinet Member Decision

Electoral Division: County-Wide

Summary: This report establishes the County Council's fees for administering applications to deposit maps, statements and declarations under section 31(6) of the Highways Act 1980 and/or a statement and map under section 15A of the Commons Act 2006. New provisions enabling a fee to be charged are introduced by Regulation and come into effect on the 1 October 2013.

Recommendation: Members of the Cabinet Committee are asked to consider and either endorse or make recommendations on the Cabinet Member decision to agree the fees to be charged in respect of applications made under The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013 as set out in this report.

1. Introduction

1.1 Following the passage of the Growth and Infrastructure Act 2013, the Government published regulations on 14 July 2013 to extend existing provisions by which landowners may deposit statements and maps with the appropriate council to negative an intention to dedicate ways as public rights of way over their land. Additionally, a landowner may deposit a statement and map with a commons registration authority in order to protect their land from registration as a town or village green.

1.2 The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013, Statutory Instrument No 1774, referred to from this point on as the Regulations, establish a number of requirements in respect of applications made relating to statutory deposits and declarations for the purposes set out in paragraph 1.1 above. The majority of these requirements relate to the forms of application to be used and the process to be followed by the County Council when they are received and how the information contained in the applications is to be notified and made available to the public. These are not, therefore, matters requiring a member decision.

1.3 However, Regulation 2 (d) provides that an application must be accompanied by such reasonable fee (if any) specified by the appropriate authority for an application of that type. A member decision is required to establish the fee to be charged by the County Council for such applications.

2. Financial Implications

Up until now the County Council has not been able to charge a fee for processing applications designed to protect landowners' interests. In establishing a fee for the administration of applications, the County Council can recover its reasonable costs. This is a positive situation in which the administration of the provisions should be cost neutral to the County Council and improves the previous situation in which unrecoverable costs were incurred. Over the last ten years 411 applications have been received and whilst this might not appear a large number, all applications have to be checked by officers for accuracy in respect of existing rights of highways boundaries and the fee reflects the work involved.

3. Bold Steps for Kent and Policy Framework

The need for this decision arises as a result of legislative change. However, the Regulations stem directly from measures introduced through the Growth and Infrastructure Act 2013 which are intended to remove barriers to development and encourage economic growth. The proposals, therefore, contribute to the core theme of helping the Kent economy grow.

4. The New Regulations

4.1 Applications to record previously unrecorded public rights of way and to register town or village greens can result in considerable cost to landowners and the public, particularly where applications are contested.

4.2 Two provisions are designed to provide landowners with a degree of protection against future applications to record public rights of way or register town or village green on their land:

- Section 31(6) of the Highways Act 1980 provides a mechanism through which a landowner may provide, by way of depositing statements and maps followed by subsequent declarations, sufficient evidence to negate an intention to dedicate ways over the landowners land.
- Section 15A of the Commons Act 2006 provides a mechanism by which a landowner may deposit a statement accompanied with a map in order to protect the landowner's land from registration as a town or village green.

4.3 The Regulations come into effect on 1 October 2013 and establish an application form for deposits under section 31(6) of the Highways Act 1980 and section 15 A (1) of the Commons Act 2006.

4.4 Section 13 (6)(b) of the Growth and Infrastructure Act 2013 states the Secretary of State may make regulations which make provision "as to the fees payable in relation to the depositing of a map and statement, or the lodging of a declaration including

provision for a fee payable under the regulations to be determined by the appropriate council". The subsequent regulations state that any application must be accompanied by such reasonable fee (if any) specified by the appropriate authority. It, therefore, falls to the County Council as the appropriate authority to establish a reasonable fee.

4.5 The County Council has a published schedule of charges for those elements of work carried out by the Public Rights of Way & Access Service for which a fee may be charged. The schedule was approved by member decision 12/01883, published on 21 March 2012.

4.6 The proposed fees for the consideration of applications made under the Regulations are set out below. They reflect fees already established for similar work. It is recommended these fees be incorporated into the charging schedule and are subject to an annual adjustment of fees relating to the charge out rates for officers where the adjustment will reflect any change in remuneration agreed by the County Council.

4.7 The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013 Fees schedule:

Item	Details	What's included	Fee
Process application	Acknowledgement of receipt Checking of application including comparison with existing records. Publicise notice of receipt Publish notice of application on website Serve notice of application by e-mail	Officer time, computer work, stationary, photocopying, scanning (4 Hours)*.	£200
Post notice of application	Post notice on site at least at one obvious point of entry to the land to which application relates.	Officer time, lamination of notices, travel expenses. (2 hours)	£100
Update registers.	Add entries to relevant registers	Officer time, computer work, scanning and digitisation of records. (1 hour)	£50
Standard Fee			£350
Renewal of statutory declaration	Up date records	Officer time, computer work, stationary, photocopying, scanning (1 hour)	£50

* In the case of applications covering extensive areas or multiple land parcels additional time may be involved. This time will be recorded and charged at a rate of £50 per hour (pro rata).

5. Recommendation

Members of the Cabinet Committee are asked to consider and either endorse or make recommendations on the Cabinet Member decision to agree the fees to be charged in

respect to applications made under the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013, as set out in this report.

6. Background Documents

6.1 Statutory Instrument No 1774: The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013 at:

<http://www.legislation.gov.uk/uksi/2013/1774/contents/made>

6.2 Public Rights of Way and Access Service charges schedule at:

<https://shareweb.kent.gov.uk/Documents/environment-and-planning/Countryside%20Access/Charging%20Schedule%20-%20revision%20April%202012.pdf>

7. Contact details

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