

From: Matthew Balfour, Cabinet Member for Environment and Transport

Barbara Cooper, Corporate Director Growth, Environment and Transport

Paul Crick, Director of Environment Planning and Enforcement

To: **Environment and Transport Cabinet Committee, 9 April 2015**

Decision No: **15/00029**

Subject: **Commons Act 2006 – Introduction of fees for specified applications**

Key decision – *Affects more than 2 Electoral Divisions*

Classification: **Unrestricted**

Future Pathway of Paper: Decision will be implemented if the recommendation is agreed by the Cabinet Member, following endorsement or recommendation by the Cabinet Committee.

Electoral Division: All

Summary: A report seeking authority to introduce fees (as set out in Appendix A) in respect of applications under the Commons Act 2006.

Recommendation(s):

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Environment and Transport on the proposed decision to introduce a charging regime as detailed at Appendix A for fees in respect of applications made under the Commons Act 2006.

1. Introduction

1.1 Regulations were introduced on the 15 December 2014 enabling authorities to recharge their costs in dealing with certain types of applications under the Commons Act 2006. DEFRA's view was that there should be no charge for applications made in the public interest (e.g. applications to register new Village Greens) but that authorities ought to be able to recover their costs in certain cases where an application, if successful, would be of clear benefit to the landowner. This report recommends the introduction of charges for such applications.

2. Financial Implications

The charges proposed have been calculated to accurately reflect the full costs to the County Council of undertaking the specified activity; the intention being that where applications may be charged for under the regulations the activity is cost neutral.

3. Policy Framework

3.1 The decision relates to Increasing Opportunities, Improving Outcomes by enabling the correct recording of Common Land and Village Greens in a way that is cost neutral to the authority thus reducing pressure on the service revenue budget that can be used to contribute to the physical, cultural, social and environmental fabric of the county.

4. The Report

4.1. Kent County Council is one of seven 'Commons Registration Authorities' that was selected by DEFRA to participate in a pilot project concerned with the implementation of Part 1 of the Commons Act 2006 ("the 2006 Act"). The 2006 Act sought to replace previously out-dated legislation contained in the Commons Registration Act 1965 regarding the registration of Common Land and Village Greens. It introduced a raft of new measures enabling (for the first time) members of the public, landowners and other interested persons to apply to the County Council to amend the formal 'Registers of Common Land and Village Greens' (i.e. by updating them or correcting errors). The pilot project came into effect in Kent (and the other pilot authorities) on 1st October 2008.

4.2. The Regulations accompanying the 2006 Act, known as the Commons Registration (England) Regulations 2008 ("the 2008 Regulations"), specified that the pilot authorities could recharge their costs in dealing with certain types of applications under the 2006 Act. DEFRA's view was that there should be no charge for applications made in the public interest (e.g. applications to register new Village Greens) but that pilot authorities ought to be able to recover their costs in certain cases where an application, if successful, would be of clear benefit to the landowner (e.g. the removal of mistakenly registered Common Land).

4.3. Current fees: Whilst pilot authorities were encouraged to set their own fees according to individual cost recovery levels, the 2008 Regulations also set out (at Schedule 5) a list of 'default fees' that were to apply in cases where pilot authorities chose not to set their own fees. In view of the limited number of anticipated applications in this county, and the uncertainty in terms of knowing how long different types of application would take to deal with (so as to calculate accurate an cost-recovery figure), it was decided that the default fees set by DEFRA would be applied in Kent.

4.4 Future fees: As a result of two new Commons Registration Authorities joining the pilot project and a desire to review the original 2008 Regulations, on 15th December 2014, DEFRA published the Commons Registration (England) Regulations 2014 ("the 2014 Regulations"). Under these new regulations, there are no default fees and authorities are now required to set their own fees in respect of

applications made under the Commons Act 2006. As previously, the power to charge a fee applies only in respect of certain types of application, i.e. other than those specified in the list in Schedule 5 of the 2014 Regulations.

4.5. The schedule of proposed fees is set out at **Appendix A** to this report. The fees have been arrived at by applying the hourly charge-out rate for Officer time at £50 per hour. The fees vary according to what is involved as part of the processing of the application (including whether a site visit is required, whether a referral to the Planning Inspectorate is required and/or whether the matter is to be determined by the County Council's Regulation Committee Member Panel).

4.6 There are no equalities or public health implications in introducing the charges.

5. Conclusions

5.1 Agreement to the proposed charging regime will enable the Public Rights of Way and Access Service to deal with applications to amend the registers of village Greens and Common Land in a cost neutral way, therefore not placing further pressures on the service revenue budget.

6. Recommendation(s):

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Environment and Transport on the proposed decision to introduce a charging regime as detailed at Appendix A for fees in respect of applications made under the Commons Act 2006.

7. Background Documents

7.1 Appendix A: Commons Act 2006 application fees
Appendix B – Proposed Record of Decision

8. Contact details

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