

DERBYSHIRE COUNTY COUNCIL**MEETING OF CABINET MEMBER – HIGHWAYS, TRANSPORT AND
INFRASTRUCTURE****13 FEBRUARY 2020**

Report of the Director of Legal and Democratic Services in consultation with
the Executive Director – Economy, Transport and Environment

**CHARGES FOR DEPOSITS OF LANDOWNER STATEMENTS AND
DECLARATIONS****1. Purpose of the Report**

To seek approval for the introduction of fees to be charged for deposits made pursuant to section 31(6) of the Highways Act 1980 and section 15A(1) of the Commons Act 2006.

2. Information and Analysis

- 2.1 Section 31(6) of the Highways Act 1980 provides a mechanism by which landowners can protect their land from public rights of way coming into existence across it, as a result of any future or further physical public use of ways over the land. It requires a map and statement to be deposited with the County Council, outlining the extent of the land in their ownership and showing the existing public rights of way and highways which cross it. To continue this statutory protection, a declaration must be deposited with the County Council by the landowner within 20 years of the deposit of a map and statement. To maintain the statutory protection further declarations need to be deposited with the Council at ongoing intervals of less than 20 years.
- 2.1 The declaration may provide sufficient evidence to protect the landowner from any additional routes being dedicated as public rights of way across their land through public use. In Defra's view, for a declaration to be effective as evidence against presumed dedication, the lodging of the first declaration must be done as a separate event after the depositing of the map statement.
- 2.2 Section 15A(1) of the Commons Act 2006 provides a way for landowners to bring to an end any period of recreational use of land "as of right" by depositing a landowner statement. It does not however, prevent a new period of recreational use from commencing after the deposit of the statement. A landowner statement triggers a one year

period during which local inhabitants can apply to register the land as a town or village green.

- 2.3 As the Highway Authority and Commons Registration Authority the County Council is obliged to maintain a register or registers of statements and declarations made under section 31(6) of the Highways Act 1980 and of statements made under section 15A(1) of the Commons Act 2006.
- 2.4 The coming into force of the Growth and Infrastructure Act 2013 enabled the introduction within the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations)(England) Regulations 2013 of a provision by which the County Council may charge landowners depositing these items with the Council reasonable fees in respect of the associated work it has to carry out. Many local authorities introduced charges in 2013 or shortly thereafter to recover the costs they were incurring in processing declarations and statements. The County Council did not introduce a charging regime at that time resulting in the costs of processing the declarations and statements being met by the County Council.
- 2.5 In order to maintain a sustainable delivery of this service, it is considered that the County Council now needs to introduce the charges outlined in this report to ensure the reasonable costs associated with the work it carries out are recovered from those making the declarations and statements and are not born by the County Council.
- 2.6 It is considered that it would be reasonable to charge fees on each application for the deposit of
- a) a section 31(6) Highways Act 1980 statement with map,
 - b) a section 15A(1) Commons Act 2006 statement ,
 - c) a combined section 31(6) Highways Act 1980 statement with map and a section 15A(1) Commons Act 2006 statement, or
 - d) Highways Act 1980 declaration,

in accordance with the following structure:

- i) Areas of land up to 100 hectares - £309
- ii) Areas of land 100-500 hectares - £359
- iii) Areas of land 500-1000 hectares - £409
- iv) Areas of land in excess of 1000 hectares - £459,

always subject, where the land comprises more than one parcel of land or the land is segmented by highways, to additional fees of £50 for each additional parcel and/or segment.

- 2.5 These fees would be going no further than enabling the recovery of reasonable amounts to cover the handling of the applications, making them

available on the website and register, placing notices on site where required and sending notifications. Where a Highways Act 1980 statement has been deposited, the lodging of a declaration will constitute a separate application and be subject to a separate fee. However, submitting an application under both section 31(6) and 15A(1) on the same form will only incur a single fee.

Implementing this fee structure would bring Derbyshire into line with many other local authorities outside Derbyshire undertaking these responsibilities who already have in place similar fee charging schemes. Having considered fees charged by other local authorities, it is considered that the fee structure proposed within this report is comparable and sits within the broad range of fees charged by those other local authorities.

3. Financial Considerations

The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations)(England) Regulations 2013 provide for such reasonable fees to be specified for statements and declarations deposited under s31(6) of the highways Act 1980 or s15A(1) Commons Act 2006.

4. Legal Considerations

As contained in the report.

5. Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, social value, equality and diversity, human resources, environmental, and property considerations.

6. Background Papers

Held on file 3652 within the Legal Department.

7. OFFICER'S RECOMMENDATIONS That the Cabinet member approves the introduction of charging of fees in accordance with the fee structure described in this report, in respect of applications received by the Council for the deposit of statements with maps pursuant to section 31(6) Highways Act 1980, statements pursuant to section 15A(1) of the Commons Act 2006, statements with maps pursuant to section 31(6) of the Highways Act 1980 combined with statements pursuant to section 15A(1) of the Commons Act 2006, and declarations under section 31(6).

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