

LOCAL LAND CHARGES - UPDATE

Planning Advisory Committee - 19 April 2016

Report of Chief Officer Environmental and Operational Services

Status: For information

Key Decision: No

Executive Summary: This report provides an overview of the Local Land Charges Service, background, performance and future considerations.

This report supports the Key Aim of Effective management of resources

Portfolio Holder Cllr. Piper

Contact Officer Kevin Tomsett - ext: 7368

Recommendation to Planning Advisory Committee:

That the contents of the report be noted.

Introduction and Background

- 1 When a property or parcel of land is bought, leased, mortgaged or a valuation carried out, a request for a search is sent to the Local Land Charges team, the search is usually submitted by a solicitor or licensed conveyancer, either electronically or by a paper application form.
- 2 Local Land Charges inform potential buyers of property or land whether they will inherit any obligations or restrictions such as a tree preservation order or enforcement notice.
- 3 A search consists of three parts:

Part one - LLC1 - the Official Certificate of Search Form, which covers obligations and restrictions on the property imposed by the Local Authority which will be inherited by any subsequent owner - for example financial charges (registered against the property by the local authority), improvement grants, tree preservation orders or listed building status.

Part two - CON29R - the Enquiries of Local Authorities Form covers things like planning history of the property, whether the road is publicly or privately maintained and whether there are any major road or rail proposals in the vicinity

Part three - CON290 - includes further (optional) enquiries which covers information about public paths or byways, houses in multiple occupation, hazardous substance consents and common land.

- 4 For the above searches, Sevenoaks District Council charges a fee as set out in Appendix A. The fee charges should be set to fully recover the costs of the service provided.

Personal Searches

- 5 A personal search is legally defined as a search of the Local Land Charges Register (LLCR) carried out by a member of the public. CON29 Information is not included or provided by Local Land Charge Departments as part of a personal search.
- 6 Until August 2010, a fee of £11 was charged for inspection of the LLCR, as required by the Local Land Charges Regulations and set by Government. The fee was removed by Government as many Private Search Companies had complained that the fees set by authorities are incompatible with the Environmental Information Regulations 2004 (the "EIRs").
- 7 The EIRs were brought into force on 1 January 2005 as a means of implementing the 2003 EC Directive on Freedom of Information. The EIRs specifically state that environmental information contained on a register or list must be made available for personal inspection at no charge.
- 8 The result of the conflict between the EIRs and the existing legislation is that numerous private property search companies issued claims against authorities for charges levied from 1 January 2005 onwards which are alleged to be unlawful under the EIRs.
- 9 As these claims were raised against 369 Authorities, the Local Government Association (LGA) appointed Lawyers Bevan Brittan to act on behalf of all Authorities.
- 10 In June 2015 SDC, in collaboration with 368 other local authorities, the Local Government Association and lawyers Bevan Brittan, reached a mutually satisfactory settlement with members of the Amalgamated Personal Property Searches ("APPS") group, who had indicated their intention to bring claims against a number of authorities including Sevenoaks District Council. The terms on which the claims have been settled are and remain confidential to the parties. Agreement was reached after careful scrutiny of the claims and following a structured alternative dispute resolution process.
- 11 The result of the claims and settlement means Sevenoaks District Council now has to provide Personal Search information without charge.

Team Structure

- 12 The team consist of a permanent 1.9 FTE, a Senior Local Land Charges Officer (1 FTE), a Local Land Charges Officer (0.6 FTE) and a shared administration resource (0.3 FTE).
- 13 Since December 2014 an additional temporary resource (0.6 FTE) has been employed to address increasing workload and to keep performance within targets.

Performance

- 14 The annual income budget for 2015/16 for the service was £190,903, expenditure is mainly salaries, £70,161 and support service costs in terms of IT provision to support databases.
- 15 During 2015/16, the team received 1752 Searches and 1107 Personal Searches, the average time to process a Search was 7.7 working days.

Charges

- 16 As previously mentioned, a current scheme of charges for the service are set out in Appendix A and are set to recover the costs of providing the service but not to create a surplus, however, from the 4 July 2016, HMRC have announced that certain elements of the service will require VAT to be charged. It is recommended that VAT will be added to our existing fees and will not be absorbed as this would not lead to full cost recovery.

Land Registry Proposals

- 17 In 2010, HM Land Registry proposed that a single, standardised point of contact should be created for the provision of LLC information citing "*an issue with the lack of standardisation with the current provision system of LLC and CON29 searches*".
- 18 Since that time, legislation has been passed which will enable HMLR to assume responsibility and payment for the provision of LLC data from all Local Authorities including Sevenoaks District Council. SDC will be required to provide this data at no cost.
- 19 In 2010 migration was expected to be phased throughout 2015, the latest understanding is that migration will be phased through 2017-2022. When the service is migrated to HMLR, Sevenoaks District Council will be required to provide data, by a means not yet known but presumably electronically, on a daily basis to HMLR. From this date, SDC will no longer be able to charge a fee for information provided.
- 20 SDC have engaged with the HMLR and are actively working on how data is stored, the digitising of data and how this could most efficiently be achieved and discussion are ongoing.

Key Implications

Financial

The annual income budget for 2015/16 for the service was £190,903, if HMLR proposals come into force, no income will be generated.

Legal Implications and Risk Assessment Statement.

Local Land Charges is a statutory service.

Equality Assessment

There are no equalities impacts arising from this report.

Appendices

Appendix A - Current Charges

Background Papers:

None

Richard Wilson

Chief Officer Environmental and Operational Services