

REPORT TO: Cabinet

MEETING DATE: 8 November 2022

BY: Executive Director for Place

SUBJECT: Charging for Road Construction Consents (RCCs)

1 PURPOSE

To seek approval for the proposed approach to charging for Road Construction Consents (RCCs) within Road Services in East Lothian Council.

2 RECOMMENDATIONS

- 2.1 That Cabinet approves the introduction of RCC charges set at a rate to allow cost recovery through implementing a charge per metre of road, from 1st April 2023. This proposal is in line with East Lothian's Charging Policy and will support the delivery of the Council's approved budget.

3 BACKGROUND

- 3.1 The Roads (Scotland) Act 1984, explicitly allows a councils to charge a developer for all reasonable costs associated with entry and inspection of roads and their associated infrastructure. ELC, along with many other councils, have traditionally charged for the onsite inspections required to control construction and design standards of roads to be adopted by the Roads Authority for public use and subsequently added to the list of public roads.
- 3.2 Under the Road Scotland Act 1984 Section 140(6) ELC is entitled to recover reasonable costs for inspecting and remediating work carried out under an RCC and also 'ascertaining whether any work required to be done by or under this Act ... has been done'.
- 3.3 Via the Local Government (Scotland) Act 2003, local authorities are granted the power to impose reasonable charges for anything done by the authority under section 20. Section 20 includes the power of doing anything which is considered likely to promote or improve well-being.

3.4 This approach is also supported by the established ELC Charging Policy which is predicated on the Best Value principles of:

- *The users of a service should pay for the delivery of the service, unless it is fully universally accessed.*
- *A service provided to commercial organisations should operate on a cost recovery basis as a minimum.*
- *A service that is not universally accessed by all residents or delivered to support residents facing disadvantage, should not be subsidised through local and general tax contributions.*

Therefore services such as processing and issuing RCCs should not be paid for out of general service budgets

3.5 ELC Road Services spends a considerable amount of time processing and approving RCCs to ensure that new transport infrastructure is built to the required standards, and that ongoing maintenance costs are minimised including advising applicants on the framing of their applications, guidance on how to improve failing applications, site meetings etc. These professional services are carried out by highly trained specialists. Considering the financial context and current demand for this service there is need to take a commercial approach introducing service charges for processing and issuing RCCs.

3.6 Road Services are consultees of the Planning Service, providing feedback and recommendations on planning applications. This allows checks for potential road safety issues, and flags any conflicts with parking and other roads policies.

3.7 Additionally, Road Services process RCC's for those developments where a new road is proposed for eventual adoption by East Lothian Council (addition to the list of public roads, under the Roads (Scotland) Act 1984). This is a lengthy process requiring the checking of developers' proposals against our layout and engineering standards, and ensuring that the correct documentation is in place regarding flooding, structures, drainage, lighting and car charging infrastructure.

3.8 Currently the Roads department undertakes road construction consents work free of charge to developers, except to charge an hourly rate for site inspections to ensure that construction is in accordance with the approved plans. This project proposes to charge for this service to recover the costs East Lothian council incurs.

3.9 A benchmarking exercise was undertaken with councils across the UK, with support from the ELC Legal Service to advise on the legislative positions in Scotland and England and to confirm that ELC is able to raise this charge.

- 3.10 An options appraisal was carried out to analyse a number of options for calculating a charge to recover costs, and implement that charge. The preferred option, charging per metre of road, was evaluated as the most transparent and simplest to administer. It is also easy for the developer to calculate up-front.
- 3.11 The proposed charging approach includes a fixed fee of £500 per application, £35 per metre for the first 100 linear metres then £20 per metre for each subsequent linear metre and £5 for each linear metre of path. Therefore, for the 'average' RCC the charge would be $\{£500 + (£35 \times 100m) + (£20 \times 290m)\} = £9,800$ excluding paths. The charges have been developed in conjunction with the Road Service and Finance.
- 3.12 By using this method anyone needing a road construction consent can clearly see the costs. The benefit to ELC is that it will recover the costs of providing the service and developers will receive a more efficient and effective service as it will be fully funded and therefore better resourced.
- 3.13 In 2016, the [Chief Planner for Scotland recommended](#) that councils work to align the RCC and Planning processes. Early input into the planning process will help to ensure that the RCC process is more efficient with earlier completion through the formal process once detailed planning is approved. Therefore this service charge proposes that ELC run the initial informal RCC and planning processes in parallel. And also complete the RCC (and associated) paperwork and provide professional services through the whole life of the RCC until final (formal) roads adoption.
- 3.14 Following the approval, communications will be issued to developers and the council website will be updated to include information on RCC for customer guidance. The RCC policy documents will be developed and made available before implementation of these charges. A payment process will be set up through the ELC customer portal which will include request and pay for the service, invoice for the client, generate a unique reference for roads and client and allow the client to attach drawings, specifications and other information relevant to the road construction consents.

4 POLICY IMPLICATIONS

- 4.1 The proposed approach to charging for Road Construction Consents (RCCs) recommended above follow the guidance in East Lothian Council's Charging Policy.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report has been through the Integrated Impact Assessment process and no negative impacts have been identified.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – Depending on the number of RCC applications the proposed charge could generate income on a cost recovery basis of approximately £260K per annum (NB - this is based on the previous 3 years RCC applications and is therefore a forecast of the estimated level of development roads to come which we cannot predict with full certainty or control) and will cover the cost of the work estimated for 2023/24.
- 6.2 Personnel - The income from the proposed charge will fund existing and additional resources (existing cost £163k + additional cost £97k) for the Road Service to deliver the improved RCC process. The following resources have been proposed:
- 0.55 Grade 7
 - 2.50 Grade 9
 - 0.60 Grade 10
- 6.3 Other - The Road Service will keep full records of RCCs processed and income generated. Charges will be kept under yearly review as part of the annual budget setting process.

7 BACKGROUND PAPERS

- 7.1 None.

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