

WELWYN HATFIELD BOROUGH COUNCIL
CABINET– 1 NOVEMBER 2016
REPORT OF THE EXECUTIVE DIRECTOR

- 1.1 LOCAL LAND CHARGES- Proposed transfer of the function to Her Majesty's Land Registry (Land Registry).

2 Executive Summary

- 2.1 This report updates Cabinet on the latest position with regards to proposed transfer and makes a request for additional funds to appoint additional staff either through our temp desk or directly on a fixed term contract, to enable the Council to meet its statutory obligations.

3 Recommendation(s)

- 3.1 That Cabinet notes this report and approves a budget growth of a maximum of £60,298, funded by the strategic reserve, to appoint the additional staff to the local land charges service as set out in this report.

Implications

4 Financial Implication(s)

- 4.1 The total cost (including on-costs) of recruiting 2 Local Land Charges Officers on a fixed term contract for 12 months amounts to £60,298 . This was not expenditure anticipated at the time of setting the 2016/17 budget and so there is no allowance in the approved revenue budget. There is, however, adequate balance in the earmarked "strategic" reserve that can be used for this purpose. The transfer of responsibility to the Land Registry was identified as an issue to be addressed within the Medium Term Financial Strategy although at the time the Government had indicated that the Land Registry would meet all costs for the transfer This is based on the costs for each post at Grade E Scale point 20. There is sufficient space within the current local land charges office to accommodate these extra staff.
- 4.2 Despite assurances from Land Registry that a 'new burdens' payment will be received by the Council, there is no certainty as to when this will happen or what amounts will be received by the Council but it appears likely that the Council will receive some fund back from Government to offset these and other costs.

5 Link to Corporate Priorities

- 5.1 Not applicable, this has come about through a change in the law.

6 Legal Implication(s)

- 6.1 The Infrastructure Act 2015 (the Act) amended the Local Land Charges Act 1975, to transfer the responsibility for keeping the local land charges register to the Land Registry.

7 Climate Change Implication(s)

7.1 Not applicable.

8 Risk Management Implications

8.1 Reputational risk- Under the Act, every council is under a duty to provide the Chief Land Registrar with such information or other assistance as the Chief Land Registrar reasonably requires for the purposes of enabling the Act to have effect in relation to the area of that authority. Failure to do so may result in reputational risk to the Council and possible legal challenge by the Land Registry.

8.2 Financial risk-the transfer of the local land charges register to the Land Registry will impact on local authorities at various stages. There will be a loss of income to the Council directly and the Council will continue to incur on-going costs of data collection following transfer, as information on local land charges will still have to be supplied by the Council to the Land Registry, in order to keep the register updated. This is mitigated slightly by the Government's promise of 'new burdens' payments but there is no clarity about whether these will cover each Council's costs or when they will be received.

8.3 Legal risk- legal liability will continue to rest with the Council for any inaccurate information provided. Therefore, the Council's insurance policy will still have to be maintained for this purpose.

9 Explanation

9.1 Local land charges are entered in local land charges registers, open to public inspection and administered by each local authority in England and Wales in relation to the local land charges that affect the land within their respective administrative areas.

9.2 The way in which the local registers are administered, in particular as to whether and to what extent the registers have been computerised, varies widely across England and Wales, as do the fees charged for searches of the register in England (where individual local authorities have power to set the fees for their own areas, subject to general guidance from the Lord Chancellor).

9.3 Following investigation of the position by Land Registry, and a consultation exercise which ended on 9 March 2014, the Government decided that responsibility for its administration should be transferred from the local authorities in England and Wales to the Land Registry. Land Registry should then provide a composite fully computerised local land charges system accessible to users by electronic communications. Each council will remain responsible for collecting the land charges at source and inputting the data electronically to the Land Registry.

9.4 The Act came into force on 12 April 2015 and since that time, the Land Registry has made contact with every council including this Council to request a light touch audit of the data that is currently held by each authority. In Welwyn Hatfield Borough Council, the local land charges registers are all held in an entirely paper format.

9.5 An introductory meeting took place with the Land Registry on 15 October 2014. This was prior to the Act taking effect. At the time, the Council was informed that (1) very early on after April 2015, Land Registry would be working out the level of 'burdens payment' each local authority should expect to receive for preparing the

local land charges data in a format required by the LR's digitalisation partners. (2) The first stage post April 2015, would be to engage a digitalisation partner through procurement. This was likely to run from April 2015 to mid-2016. (3) Phase 1 would begin from mid-2016 to 2017, where a number of local authorities would be pilots under the new digital system. (4) Phase 2 was likely to run from 2017 to 2020 where data migrations would start for all on a regional basis but they were still working out the order of prioritisation. (5) Land Registry would start the detailed information gathering from all councils after April 2015 but were encouraging local authorities to assist voluntarily before then.

- 9.6 The Council was also asked to complete questionnaires on the data it holds. In this Council, all local land charges records are completely held in paper. Based upon some random sampling, this amounts to approximately 54 books containing some 40,000 individual record cards.
- 9.7 On 22 September 2016, the Land Registry held a second meeting with the Council to discuss their requirements, as contained in their recently published guidance 'Local Land Charges: Local Authority pre-digitalisation and migration guide.' (appended to this report)
- 9.8 The Council was updated that (1) the Land Registry's preferred delivery model was to create an automated system on one digitalised register, with no manual intervention at all. (2) Land Registry had just procured a planning and delivery partner, AA Consultants, to look at the migration strategy (3) the next stage was to procure a digitalisation partner and both partners would work on a migration plan between 2017 to 2022 (4) Land Registry were now meeting with all councils to discuss their data migration requirements in the meantime (5) each council is required to prepare their data in a format that can be handed to the digitalisation partner when appointed (by 2017) and the requirements are set out in the Guidance attached to this report.
- 9.9 As the Council's records are completely paper based, we would be required to review each individual record card to ensure that all mandatory data groups are reviewed and rationalised on each record card. An alternative is to use the new local land charges register (procured as part of the replacement planning system) to input the data from the local land charges cards onto that system, so that a complete electronic copy will be held.
- 9.10 Whatever the route, an assessment has been done as to the resource required to input the data required or review the record cards. The Land Registry has intimated that it requires all councils to be in a position to hand over their data by 2017, although the Guidance has only just been published. There is no current plan to say where this Council will sit in the timelines and each authority would therefore have to prepare their data on the basis that they may be first in line.
- 9.11 While officers are of the view that the Council are unlikely to be in the first tranche, nevertheless it is conscious of the immense task it is being asked to undertake in such a short space of time, with no current extra resource.
- 9.12 Having performed an audit of the work that is required based upon the Guidance requirements, it is estimated that the Council will require 2 fulltime additional local land charges officers on a fixed term contract for 12 months. With 2 additional staff, it is hoped that this will take less than 12 months but it is difficult to be precise at this stage. An option could be to recruit the staff on six month fixed term contracts initially, with the option to extend for another 6 months if required.

10 Equality and Diversity

10.1 Not applicable.

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Background papers to be listed: Local Land Charges: Local Authority pre-digitisation and migration guide