

Record of Officer Decision

Review of Supervision Fees Chargeable to Developers for Highways Agreements under Section 38/278 of the Highways Act 1980

Decision Taker and Date Decision Taken:

Director of Place, in consultation with the Cabinet Member for Infrastructure, Environment, and Culture on 01 September 2020.

Summary of Matter or Issue Requiring Decision:

Historically Torbay Council have charged a nominal flat fee of 6% for supervision services to developers and contractors seeking to build infrastructure that they wish to be adopted and maintained at public expense in relation to construct new sections of highway under a Section 38 agreement and also those wishing to alter a public highway under a Section 278 agreement.

Samples of schemes have been analysed to ascertain whether the authority is recovering its costs. It has been noted that the current fee levels are appropriate for the larger value agreements, however for the smaller values the authority does not appear to be recovering its costs sufficiently and a change from the current fee arrangements are recommended.

In addition it has been noted that agreements around higher profile developments, where improvements to public realm and higher quality materials are required, will incur additional supervision from highways officers and this needs to be reflected in the supervision fees charged.

Therefore we are proposing the following fee structure for highway agreement works. Note that the stated percentages relate to the authority's estimated construction costs of the schemes in question:

- Section 38 fees up to £25,000 to be £1,500 fixed fee
- Section 38 fees £25,000 to £50,000 to be 10%
- Section 38 fees £50,000 to £150,000 to be 8%
- Section 38 fees over £150,000 to be 6%
- Section 278 fees up to £25,000 to be £1,500 fixed fee
- Section 278 fees £25,000 to £50,000 to be 10%
- Section 278 fees £50,000 to £150,000 to be 8%
- Section 278 Works over £150,000 to be 6%
- Any Public Realm works and Town Centre improvements will carry an additional 1% on the above percentages, due to the increased officer time dealing with the design and consultations.

Decision Taken:

That the above Fee structure is introduced for all Highways agreements for Supervision from 1st September 2020.

Summary of Reason(s) for Decision Taken:

To ensure that the authority fully recovers its costs when carrying out supervision works in relation to Highway Agreements with Private Sector Developers.

Summary of Alternatives or Options considered and rejected and Background Papers:

Various options have been considered and discounted; including more use of fixed fees, an increased single value percentage and bespoke fee proposals for individual schemes. Consideration of ensuring that fees are fair and appropriate to each location and the timescales involved with dealing with agreements have demonstrated that the recommended approach is the most appropriate.

Details of any conflict of interest and dispensation granted to the Officer taking the decision or by any Member of the Council in delegating responsibility for any specific express delegation:

None.

Implementation:

This decision will be implemented immediately.

A copy of this decision and any supporting documentation considered by the Officer taking this decision may also be available for inspection by the public at the Council's offices or posted upon payment of any copying and postage charges. Any member of the public wishing to take up either of these options is asked to please ring (01803) 207087 or email governance.support@torbay.gov.uk

Signed: _____ Date: _____
(Director of Place)